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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

INES LOPEZ ZAGAL,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-75052

Agency No. A79-524-399

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted: November 13, 2007**

Before: McKEOWN, TALLMAN and CLIFTON, Circuit Judges.

This is a petition for review from the Board of Immigration Appeals’ (“BIA”) denial of a motion to reopen of a previous denial of an application for cancellation of removal. We review this decision for an abuse of discretion. *See*

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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Ray v. Gonzalez, 439 F.3d 582 (9th Cir. 2006) (citing *Singh v. Ashcroft*, 367 F.3d 1182, 1185 (9th Cir. 2004)). We conclude that the BIA did not abuse its discretion in denying the motion to reopen because petitioner failed to timely file her motion or provide additional evidence to support an exception to the 90-day deadline. *See* 8 C.F.R. § 1003.2(c)(2). Accordingly, respondent's motion for summary disposition is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

As to petitioner's request for sua sponte reopening, this court lacks jurisdiction to review the BIA's discretionary decision to deny sua sponte reopening of petitioner's case. *See* 8 C.F.R. §3.2(a); *Ekimian v. INS*, 303 F.3d 1153 (9th Cir. 2002). We therefore dismiss this petition in part.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.