

DEC 21 2007

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

ENRIQUE ZAVALA; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-73381

Agency Nos. A79-536-617  
A78-112-484

MEMORANDUM\*

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

Submitted December 17, 2007\*\*

Before: GOODWIN, REINHARDT and W. FLETCHER, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")  
order denying petitioners' motion to reopen.

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\* 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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The docketing and filing fees for this petition for review were paid on November 20, 2007. Accordingly, the court's October 2, 2007 order to show cause is discharged.

The BIA's denial of a motion to reopen is reviewed for abuse of discretion. *See Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002). The regulations state that a motion to reopen shall present new facts and shall not be granted unless the new evidence is material and could not have been presented at the former hearing. *See* 8 C.F.R. § 1003.2(c)(1).

A review of the administrative record demonstrates that the BIA did not abuse its discretion in denying the motion to reopen as to Victoria Galindo. The motion to reopen did not present any new facts regarding Victoria Galindo's departure from the United States in 1999, the ground on which the BIA found her statutorily ineligible for cancellation of removal. Accordingly, respondent's unopposed motion for summary disposition is granted as to Victoria Galindo 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).

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A further review of the record demonstrates that this court lacks jurisdiction over this petition for review as to Enrique Zavala. Accordingly, the court sua sponte dismisses this petition for review as to Enrique Zavala for lack of jurisdiction. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *Fernandez v. Gonzales*, 439 F.3d 592, 601 (9th Cir. 2006) (concluding that the court lacks jurisdiction to review the Board of Immigration Appeals' denial of motion to reopen "where the question presented is essentially the same discretionary issue originally decided" by the Board of Immigration Appeals).

The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

All other pending motions are denied as moot.

**PETITION FOR REVIEW DENIED in part; DISMISSED in part.**