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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SUSANA RAMIREZ LEON,</p> <p>Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p>Respondent.</p>
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No. 07-74557

Agency No. A79-517-577

MEMORANDUM *

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

Submitted March 10, 2008 **

Before: T.G. NELSON, TASHIMA and BYBEE, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")
denial of a motion to reopen immigration proceedings following entry of an in
absentia order denying cancellation of removal and voluntary departure.

* 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 BIA did not abuse its discretion in denying petitioner's motion to reopen where she did not show she would more likely than not be tortured upon return to Mexico and therefore failed to demonstrate prima facie eligibility for relief under the Convention Against Torture ("CAT"). *See* 8 C.F.R.

§ 1208.16(c)(2) (applicant for CAT relief must prove "it is more likely than not that he or she would be tortured if removed to the proposed country of removal"); *Mendez-Gutierrez v. Ashcroft*, 340 F.3d 865, 869-70 (9th Cir. 2003) ("prima facie eligibility for the relief sought is a prerequisite for the granting of a motion to reopen").

Accordingly, respondent's unopposed motion for summary denial of this petition for review is granted.

All pending motions are denied as moot. The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED.