

MAR 12 2008

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION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

ROSA ELIA LOPEZ GOMEZ,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-74442

Agency No. A95-310-308

MEMORANDUM*

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

Submitted February 26, 2008**

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

Rosa Elia Lopez Gomez, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reconsider. To the extent we have jurisdiction, it is pursuant to 8 U.S.C. § 1252.

* 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).

We review for abuse of discretion the denial of a motion to reconsider. *See Oh v. Gonzales*, 406 F.3d 611, 612 (9th Cir. 2005). We deny in part and dismiss in part the petition for review.

The BIA was within its discretion in denying Lopez Gomez’s motion to reconsider because the motion failed to identify any error of fact or law in the BIA’s prior decision upholding the IJ’s denial of cancellation of removal on physical presence grounds due to an expedited removal order in 1997. *See Socop-Gonzalez v. INS*, 272 F.3d 1176, 1180 n.2 (9th Cir. 2001) (en banc) (explaining requirements for motion to reconsider); *Juarez-Ramos v. Gonzales*, 485 F.3d 509, 512 (9th Cir. 2007) (holding that expedited removal interrupts an alien’s continuous physical presence for cancellation purposes).

We lack jurisdiction to review Lopez-Gomez’s contention that the IJ and BIA erred in not considering any hardship evidence because she failed to raise it before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (noting that due process challenges that are “procedural in nature” must be exhausted).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.