

APR 21 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

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

FOR THE NINTH CIRCUIT

MARICELA CONTRERAS LLAMAS,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-75063

Agency No. A96-364-797

MEMORANDUM \*

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

Submitted April 15, 2008 \*\*

Before: B. FLETCHER, FISHER and PAEZ, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")  
denial of petitioner's motion to reopen immigration proceedings.

Petitioner provided with her motion to reopen additional evidence of her  
children's academic success and the limited availability of special education services  
in Mexico, which the BIA found to be cumulative of that considered by the

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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).

immigration judge with her application for cancellation of removal. Because this evidence addressed the same basic hardship grounds previously considered by the agency, this court lacks jurisdiction to review this aspect of the denial of the motion to reopen. *See Fernandez v. Gonzales*, 439 F.3d 592, 600 (9th Cir. 2006).

Accordingly, respondent's unopposed motion to dismiss is granted in part.

With regard to the BIA's denial of petitioner's motion to reopen to apply for protection under the Convention Against Torture ("CAT"), we conclude the BIA did not abuse its discretion because petitioner did not show she would more likely than not be tortured upon return to Mexico and therefore failed to demonstrate prima facie eligibility for CAT relief. *See* 8 C.F.R. § 1208.16(c)(2); *Mendez-Gutierrez v. Ashcroft*, 340 F.3d 865, 869-70 (9th Cir. 2003). We therefore summarily deny this petition in part because the questions raised are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

The motion for stay of voluntary departure, filed after the departure period had expired, is denied. *See Garcia v. Ashcroft*, 368 F.3d 1157 (9th Cir. 2004).

All other 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 DISMISSED in part; DENIED in part.**