

JUN 19 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE ANTONIO ORTIZ ALQUICIRA; et
al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 08-70440

Agency Nos. A95-882-712
A95-882-713
A95-882-714

MEMORANDUM *

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

Submitted June 9, 2008 **

Before: REINHARDT, BERZON and M. SMITH, Circuit Judges.

This is a petition for review from the Board of Immigration Appeals’
 (“BIA”) denial of a motion to reopen.

* 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 the BIA's ruling on a motion to reopen for abuse of discretion. *Perez v. Mukasey*, 516 F.3d 770, 773 (9th Cir. 2008).

The regulations provide that "a party may file only one motion to reopen," and that the motion "must be filed no later than 90 days after the date on which the final administrative decision was rendered in the proceeding sought to be reopened." *See* 8 C.F.R. § 1003.2(c)(2). Because petitioners' motion to reopen was filed beyond the 90-day deadline, and petitioners have not contended that any exceptions to this time limit apply, the BIA did not abuse its discretion in denying petitioners' untimely motion to reopen. Accordingly, respondent's motion for summary disposition in part 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).

This court lacks jurisdiction to review the BIA's refusal to reopen *sua sponte*. *See Abassi v. INS*, 305 F.3d 1028 (9th Cir. 2002); *Ekimian v. INS*, 303 F.3d 1153 (9th Cir. 2002). Accordingly, respondent's motion to dismiss this petition for review in part for lack of jurisdiction is granted. *See id.*

All other pending motions are denied as moot. The temporary stay of removal shall continue in effect until issuance of the mandate.

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