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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JUAN MANUEL ELIZONDO-MONTES,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 08-71452

Agency No. A75-766-545

MEMORANDUM*

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

Submitted July 14, 2008**

Before: SCHROEDER, LEAVY and IKUTA, Circuit Judges.

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

* 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).

cancellation of removal. We review this decision for an abuse of discretion. *See Ray v. Gonzales*, 439 F.3d 582 (9th Cir. 2006) (citing *Singh v. Ashcroft*, 367 F.3d 1182, 1185 (9th Cir. 2004)).

We conclude that the BIA did not abuse its discretion in denying the motion to reopen because petitioner's motion was untimely filed and failed to meet an exception to the time limits on motions to reopen. *See* 8 C.F.R. § 1003.2(c)(2). Petitioner's claim for protection under the Convention Against Torture ("CAT") failed to present changed country conditions in Mexico that are material to petitioner or his circumstances and therefore, failed to meet his burden of presenting a prima facie CAT claim to support reopening. *See* 8 C.F.R. § 1003.2(c)(3)(ii); *Kamalthas v. INS*, 251 F.3d 1279 (9th Cir. 2001).

Accordingly, respondent's unopposed motion for summary denial of the petition for review is granted because the questions raised by this petition 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).

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 DENIED.