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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SHIRLEY LENORE NAOMY  
TETELEPTA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 06-74820

Agency No. A95-184-787

MEMORANDUM\*

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

Submitted November 13, 2007\*\*

Before: McKEOWN, TALLMAN and CLIFTON, Circuit Judges.

Shirley Lenore Naomy Tetelepta petitions for review of the Board of Immigration Appeals' ("BIA") order denying her untimely motion to reopen removal proceedings.

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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).

Respondent's unopposed motion to dismiss is construed as a motion to dismiss in part and a motion for summary disposition in part. This court lacks jurisdiction to review the BIA's refusal to reopen removal proceedings *sua sponte*. *See Ekimian v. INS*, 303 F.3d 1153, 1159-60 (9th Cir. 2002). Accordingly, respondent's motion to dismiss in part is granted.

The regulations provide, with certain exceptions that do not apply to this case, that a motion to reopen "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). Therefore, the BIA did not abuse its discretion in denying petitioner's untimely motion to reopen. *See id.*; *see also Iturribarria v. INS*, 321 F.3d 889, 895-96 (9th Cir. 2003). Accordingly, respondent's unopposed 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).

The temporary stay of removal shall continue in effect until issuance of the mandate.

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