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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ROGELIO URBANO BELLO; GUMERCINDA BUSTOS CARRENO,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 08-73277

Agency Nos. A079-535-949  
A079-535-950

MEMORANDUM \*

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

Submitted December 1, 2008 \*\*

Before: GOODWIN, CLIFTON and BEA, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals’ (“BIA”) order denying petitioners’ motion to reconsider or reopen removal proceedings.

We review the denial of a motion to reconsider or reopen for abuse of discretion. *See Perez v. Mukasey*, 516 F.3d 770, 773 (9th Cir. 2008).

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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)*.

A party may file only one motion to reconsider a BIA decision, and that motion must be filed within 30 days after the mailing of that decision. *See* 8 C.F.R. § 1003.2(b)(2). Further, a party is limited to filing one motion to reopen removal proceedings, and that motion must be filed within 90 days after the final administrative decision. *See* 8 C.F.R. § 1003.2(c)(2). The BIA did not abuse its discretion in denying petitioners' motion to reconsider or reopen as untimely because it was filed on January 22, 2008, more than 30 or 90 days after the March 21, 2007 final administrative decision. Accordingly, we deny this petition for review in part 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).

We lack jurisdiction to review the BIA's decision declining to exercise its sua sponte authority to reopen proceedings. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002). Accordingly, respondent's unopposed motion to dismiss this petition for review for lack of jurisdiction is granted in part.

The motion to proceed in forma pauperis is granted. The motion for a stay of removal pending review is 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 in part; DISMISSED in part.**