

DEC 15 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SONIA ROSAS; et al.,</p> <p style="text-align: center;">Petitioners,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 08-73045

Agency Nos. A070-748-868
A095-181-309

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.

The motion to proceed in forma pauperis is granted. The Clerk shall amend the docket to reflect this status.

* 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).

This is a petition for review from the Board of Immigration Appeals' ("BIA" June 24, 2008 decision denying petitioners' motion to reopen.

We have reviewed petitioners' response to the court's August 6, 2008 order to show cause and the record. We conclude that summary disposition is appropriate 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 regulations provide 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). The BIA did not abuse its discretion in denying petitioners' motion, filed more than a year and a half after the BIA's July 17, 2006 decision affirming the denial of their applications for cancellation of removal. *See Cano-Merida v. INS*, 311 F.3d 960, 964 (9th Cir. 2002) (stating that the court reviews the denial of a motion to reopen for abuse of discretion). Accordingly, this petition is summarily denied, in part.

To the extent petitioners challenge the BIA's decision declining to exercise its *sua sponte* authority to reopen and reconsider, we lack jurisdiction over that decision. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002). Accordingly, we dismiss this petition in part.

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.