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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>EDUARDO FLORES-JIMENEZ; et al.,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 08-71562

Agency Nos. A75-766-073  
A75-766-074  
A78-112-286

MEMORANDUM\*

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

Submitted September 8, 2008\*\*

Before: PREGERSON, McKEOWN and N.R. SMITH, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals’ (“BIA”) November 6, 2007 order denying petitioners’ “motion for administrative closure.” In that motion, petitioners had requested closure of proceedings based on the possibility that they might become eligible for amnesty or other relief should Congress pass new immigration legislation.

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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).

We have reviewed the record and respondent's unopposed motion to dismiss or, in the alternative, for summary disposition.

To the extent that petitioners sought administrative closure of already closed proceedings, this court lacks jurisdiction over this petition for review because it is not a timely filed petition from a final order of removal. *See* 8 U.S.C. § 1252(b)(1).

To the extent that petitioners sought reopening so that their proceedings could then be administratively closed, we conclude the BIA did not err in denying the motion based on the speculative nature of the relief sought. The BIA also correctly noted that petitioners had filed two previous motions to reopen and it did not abuse its discretion in denying the motion to reopen as numerically barred. *See Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003).

Because the questions raised by this petition for review are so insubstantial as not to require further argument, we grant respondent's motion to deny the petition in part. *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 DISMISSED in part; DENIED in part.**

PREGERSON, Circuit Judge, dissenting:

I dissent. This is but one of a multitude of similar sad cases by which our government's deportation of undocumented parents results in the deportation of their American-born citizen children, and effectively denies those children their birthrights. *See Cerrillo v. INS*, 809 F.2d 1419, 1426-27 (9th Cir. 1987) (Requiring the government to conduct individualized analyses of hardships to U.S. citizen children). Our government's conduct forces U.S. citizen children to accept de facto expulsion from their native land or give up their constitutionally protected right to remain with their parents. *See, e.g., Moore v. City of E. Cleveland*, 431 U.S. 494, 503-05 (1977) (plurality opinion) ("Our decisions establish that the Constitution protects the sanctity of the family precisely because the institution of the family is deeply rooted in this Nation's history and tradition."); *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (recognizing that "[t]he integrity of the family unit has found protection in the Due Process Clause of the Fourteenth Amendment").

To make matters worse, our Byzantine immigration laws and administrative regulations are second or third in complexity to the Internal Revenue Code. Petitioners seeking to legalize their presence are often forced to navigate this legal labyrinth alone, or with inadequate representation. In the vast majority of immigration cases before us, those who attempt to establish a productive life in this

country fall prey to unscrupulous networks of notarios and appearance lawyers who constantly cheat immigrant clients and their families out of their hard-earned money. This state of affairs is a national disgrace, of which our government is well aware.

I hope and pray that soon the good men and women who run our government will craft a system that will assure that applicants like Petitioners are represented by competent counsel in every case, and that they will ameliorate the plight of families like Petitioners' and give us humane laws that will not cause families to disintegrate.