

NOT FOR PUBLICATION

MAR 09 2009

UNITED STATES COURT OF APPEALS

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U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>FIDEL CEREZO LOPEZ; et al.,</p> <p>Petitioners,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 08-74681

Agency Nos. A099-069-101  
A099-069-102

MEMORANDUM\*

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

Submitted February 23, 2009\*\*

Before: KOZINSKI, Chief Judge, HAWKINS and GOULD, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")  
order denying petitioners' motion to reopen removal proceedings.

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

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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 review the BIA's ruling on a motion to reopen for abuse of discretion. *Perez v. Mukasey*, 516 F.3d 770, 773 (9th Cir. 2008).

An alien who is subject to a final order of removal is limited to filing one motion to reopen removal proceedings, and that motion must be filed within 90 days of the date of entry of a final order of removal. 8 U.S.C. § 1229a(c)(7)(A), (C)(i); 8 C.F.R. § 1003.2(c)(2). Petitioners' final orders of removal were entered on November 29, 2007. Because petitioners' motion to reopen was filed on July 7, 2008, beyond the 90-day deadline, and petitioners have not contended that any exceptions to this time limit apply, the BIA did not abuse its discretion in denying their motion to reopen as untimely. *See id.*

Accordingly, we summarily deny this petition for review in because the questions raised 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).

To the extent petitioners' challenge the BIA's decision declining to exercise its sua sponte authority to reopen removal proceedings, we lack jurisdiction to review this portion of the order. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002).

All other pending motions are denied as moot. The temporary stay of removal and voluntary departure confirmed by Ninth Circuit General Order 6.4(c)

and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

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