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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARTINA RAMOS-BALDERAS, Petitioner, v. ERIC H. HOLDER Jr., Attorney General, Respondent.	No. 07-74651 Agency No. A098-766-000 MEMORANDUM[*]

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

Submitted July 29, 2009[**]

Before: WALLACE, LEAVY, and HAWKINS, Circuit Judges.

Martina Ramos-Balderas, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") order denying her motion to reopen removal proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We

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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).

AP/Research

review de novo questions of law, *Moreno-Morante v. Gonzales*, 490 F.3d 1172, 1174 (9th Cir. 2007), and we deny in part and dismiss in part the petition for review.

We agree with the BIA's determination that the son of Ramos-Balderas' niece is not a qualifying relative for cancellation of removal purposes. *See* 8 U.S.C. § 1101(b)(1), *Moreno-Morante*, 490 F.3d at 1175-1178.

The evidence Ramos-Balderas presented with her motion to reopen regarding hardship to her United States citizen children concerned the same basic hardship grounds as her application for cancellation of removal. *See Fernandez v. Gonzales*, 439 F.3d 592, 602-03 (9th Cir. 2006). We therefore lack jurisdiction to review the BIA's discretionary determination that the evidence was insufficient to establish a prima facie case of hardship. *See id.* at 601.

PETITION FOR REVIEW DENIED in part; DISMISSED in part.