

DEC 10 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

VERONICA LOPEZ-DE PAXTOR,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 08-73753

Agency No. A029-169-714

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 of the Board of Immigration Appeals' ("BIA") order denying petitioner's second motion to reopen deportation proceedings.

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, 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). Because this is petitioner's second motion to reopen, filed well beyond the 90-day deadline, the BIA did not abuse its discretion in denying petitioner's motion to reopen. *See id.*

Accordingly, respondent's motion for summary disposition is granted in part 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).

As to petitioner's request to the BIA for sua sponte reopening, this court lacks jurisdiction to review the BIA's discretionary decision to deny sua sponte reopening of petitioner's case. *See* 8 C.F.R. § 3.2(a); *Ekimian v. INS*, 303 F.3d 1153 (9th Cir. 2002). Accordingly, the petition for review is dismissed 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.