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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SHIRLEY M. TACUBAN,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 04-75120

Agency No. A072-298-759

MEMORANDUM*

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

Submitted January 13, 2009**

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges

Shirley M. Tacuban, a native and citizen of the Philippines, petitions for review of the Board of Immigration Appeals' ("BIA") order summarily affirming

* 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).

an immigration judge’s (“IJ”) decision denying her application for asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence, *Nahrvani v. Gonzales*, 399 F.3d 1148, 1151 (9th Cir. 2005), we deny in part and dismiss in part the petition for review.

Tacuban does not contend that she suffered past persecution. Substantial evidence supports the IJ’s finding that Tacuban failed to establish that her fear of future persecution was on account of a protected ground, *see INS v. Elias-Zacarias*, 502 U.S. 478, 483-84 (1992), and that her fear of future persecution was too speculative, *see Nahrvani*, 399 F.3d at 1154. Therefore, her asylum claim fails.

In her opening brief, Tacuban fails to address the IJ’s determination that she is ineligible for withholding of removal or CAT. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996).

We lack jurisdiction to review the BIA’s order denying Tacuban’s motion to reopen because she failed to file a timely petition for review of that order. *See id.* at 1258.

Finally, Tacuban’s challenge to the BIA’s summary affirmance is foreclosed by *Falcon Carriche v. Ashcroft*, 350 F.3d 845, 855 (9th Cir. 2003).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.