

DEC 28 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARIA ESTER MENDEZ; BELICA
MARISOL GARCIA-MENDEZ,

Petitioners,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 06-72863

Agency Nos. A072-399-831

A077-858-235

MEMORANDUM*

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

Submitted December 15, 2009**

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

Maria Ester Mendez and Belica Marisol Garcia-Mendez, mother and daughter and natives and citizens of Guatemala, petition for review of the Board of Immigration Appeals' ("BIA") order dismissing an appeal from an immigration

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

judge's decision denying their applications for relief under the Nicaraguan and Central American Relief Act ("NACARA"), cancellation of removal, and asylum, withholding of removal, and relief under the Convention Against Torture ("CAT"). Our jurisdiction is governed by 8 U.S.C. § 1252. We dismiss in part and deny in part the petition for review.

We lack jurisdiction, under statute, to review the agency's determination that Mendez was not eligible for NACARA relief because she failed to establish that she timely registered for ABC benefits, and Mendez does not raise a legal or constitutional question that invokes our jurisdiction. *See* Illegal Immigration Reform and Immigrant Responsibility Act of 1996, § 309(c)(5)(C)(i)-(ii), Pub.L. No. 104-208, 110 Stat. 3009 (1996), *as amended by* Nicaraguan Adjustment and Central American Relief Act of 1997 § 203(a)(1), Pub.L. 105-100, 111 Stat. 2160 (1997) (providing that "[a] determination by the Attorney General as to whether an alien satisfies the requirements of this clause ... is final and shall not be subject to review by any court"); *see also* 8 U.S.C. § 1252(D) (restoring jurisdiction over questions of law and constitutional questions).

Contrary to petitioners' contention, the BIA neither abused its discretion in denying their unsupported motion to file a late brief, nor inadequately explained its

reason for doing so. *See* 8 C.F.R. § 1003.3(c)(1) (BIA has discretion to extend time period for filing of briefs).

In their opening brief, petitioners fail to address, and therefore have waived any challenge to, the agency's denial of their applications for cancellation of removal, asylum, withholding of removal, and CAT relief. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996) (issues not specifically raised and argued in a party's opening brief are waived).

Petitioners' due process contentions are unavailing.

PETITION FOR REVIEW DISMISSED in part; DENIED in part.