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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ALMA ADELINA GUTIERREZ VALLE; et al.,</p> <p style="text-align: center;">Petitioners,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER Jr., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 08-74149

Agency Nos. A099-070-804
A099-070-805

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.

Alma Adelina Gutierrez Valle and her daughter Kelly A. Carrillo Gutierrez,
natives and citizens of Mexico, petition pro se for review of the decision of the

* 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).

Board of Immigration Appeals summarily affirming the immigration judge's denial of petitioners' application for cancellation of removal.

We lack jurisdiction to review the agency's discretionary determination that Gutierrez Valle failed to show exceptional and extremely unusual hardship to her United States citizen son. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005). We also lack jurisdiction to review Gutierrez Valle's claim that conditions have changed in Mexico due to increased drug violence and swine flu health concerns because petitioner failed to exhaust the issue before the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004). Gutierrez Valle's contention that her removal would violate the due process rights of her United States citizen son by resulting in the de facto removal of her son is foreclosed. *See Urbano de Malaluan v. INS*, 577 F.2d 589, 594 (9th Cir. 1978). Finally, we uphold the agency's determination that Carrillo Gutierrez lacked a qualifying relative, and was statutorily ineligible for cancellation relief. *See* 8 U.S.C. § 1229b(b)(1).

PETITION FOR REVIEW DISMISSED IN PART; DENIED IN PART.