

JAN 21 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE JESUS CHAVEZ BERMUDEZ;
MARIA LEONARDA CHAVEZ
PALACIOS,

Petitioners,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 07-72131

Agency Nos. A075-591-268
A075-591-269

MEMORANDUM*

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

Submitted January 11, 2010**

Before: BEEZER, TROTT, and BYBEE, Circuit Judges.

Jose Jesus Chavez Bermudez (“Chavez”) and his wife, Maria Leonarda Chavez Palacios, natives and citizens of Mexico, petition pro se for review of an

* 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).

order of the Board of Immigration Appeals (“BIA”) denying their motion to reopen removal proceedings. Our jurisdiction is governed by 8 U.S.C. § 1252. We review for abuse of discretion the denial of a motion to reopen, *Ordonez v. INS*, 345 F.3d 777, 782 (9th Cir. 2003), and we dismiss in part and deny in part the petition for review.

We lack jurisdiction to review Chavez’s challenge to the BIA’s September 14, 2007 decision. *See* 8 U.S.C. § 1252(b)(1) (petition for review must be filed not later than 30 days after the date of the final order of removal).

To the extent that Chavez’s pro se brief challenges the BIA’s April 30, 2007 decision, the BIA did not abuse its discretion in denying the October 3, 2006 motion to reopen because Chavez failed to present evidence to support any of his contentions. *See* 8 C.F.R. § 1003.2(c)(1) (providing that a motion to reopen “shall be supported by affidavits or other evidentiary material”).

Chavez’s contention that the BIA violated due process by disregarding his evidence of hardship is not supported by the record and does not amount to a colorable constitutional claim. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005) (“[T]raditional abuse of discretion challenges recast as alleged due process violations do not constitute colorable constitutional claims that would invoke our jurisdiction.”).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.