

SEP 12 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SHANKHAR KARKI and ANJU KARKI,</p> <p>Petitioners,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General,</p> <p>Respondent.</p>
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No. 11-71791

Agency Nos. A089-697-541
 A089-697-542

MEMORANDUM*

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

Submitted September 10, 2014**
San Francisco, California

Before: BEA, IKUTA, and HURWITZ, Circuit Judges.

Shankhar and Anju Karki, citizens of Nepal, petition for review of the Board of Immigration Appeals’s (BIA) denial of a motion to reopen. We have jurisdiction under 8 U.S.C. § 1252(a), and deny the petition for review.

* 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).

The BIA “has broad discretion in ruling on a motion to reopen,” *Toufighi v. Mukasey*, 538 F.3d 988, 993 (9th Cir. 2007), and we conclude it did not abuse that discretion here. The Karkis did not petition for review of the BIA’s decision on the merits. The materials submitted with the motion to reopen are similar in nature to evidence the BIA deemed insufficient after the merits hearing. Indeed, the “alleged new attacks and threats by the Maoists [were] based on the exact same underlying circumstances that the [Karkis] alleged existed at the time of the hearing.” Therefore, the BIA did not err in concluding that the Karkis had not proffered new facts and material evidence that “would likely change the result in the case.” *Young Sun Shin v. Mukasey*, 547 F.3d 1019, 1025 (9th Cir. 2008), *see* 8 C.F.R. § 1003.2(c)(1).

PETITION DENIED.