

DEC 02 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MILTON MEDRANO-TORRES;
DORIAN OSMAN FAVILENA-
TORRES,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 11-71356

Agency Nos. A077-460-539
A077-460-538

MEMORANDUM*

MILTON MEDRANO-TORRES,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 11-72910

Agency No. A077-460-539

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

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

Submitted November 18, 2014**

Before: LEAVY, FISHER, and N.R. SMITH, Circuit Judges.

Milton Medrano-Torres and Dorian Osman Favilena-Torres, natives and citizens of Nicaragua, petition for review of the Board of Immigration Appeals' ("BIA") order dismissing their appeal from an immigration judge's decision denying their application for asylum, withholding of removal, and relief under the Convention Against Torture ("CAT") (No. 11-71356). In addition, Milton Medrano-Torres petitions for review of the BIA's order denying his motion to reconsider, which the BIA construed as both a motion to reconsider and a second motion to reopen (No. 11-72910). Our jurisdiction is governed by 8 U.S.C. § 1252. We dismiss in part and deny in part the petitions for review.

With respect to petitioner Favilena-Torres (A077-460-538), the BIA reopened and remanded proceedings for consideration of an application for adjustment of status. Consequently, there is no final order of removal in effect for Favilena-Torres and the court lacks jurisdiction over the petition for review (No. 11-71356) as to him. *See* 8 U.S.C. § 1252(a)(1); *Lopez-Ruiz v. Ashcroft*, 298 F.3d

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

886, 887 (9th Cir. 2002) (order) (dismissing, without prejudice, for lack of jurisdiction). Thus, we dismiss the petition for review (No. 11-71356) as to Favilena-Torres.

Further, we lack jurisdiction to review the BIA's July 20, 2011, order denying Medrano-Torres's motion to reopen to adjust status, because he did not file a petition for review of that order. *See Stone v. INS*, 514 U.S. 386, 405 (1995); *Martinez-Serrano v. INS*, 94 F.3d 1256, 1258 (9th Cir. 1996).

Finally, Medrano-Torres does not raise any arguments in his opening brief regarding either the BIA's denial of his application for asylum, withholding of removal, and CAT relief (No. 11-71356), or the BIA's denial of his motion to reconsider and second motion to reopen (No. 11-72910). *See Martinez-Serrano*, 94 F.3d at 1259-60 (issues not supported by argument are deemed waived).

PETITIONS FOR REVIEW DISMISSED in part; DENIED in part.