

APR 23 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ARMANDO BOGNOT MALIWAT,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 07-74759

Agency No. A44-715-815

MEMORANDUM *

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

Submitted April 15, 2008**

Before: B. FLETCHER, FISHER and PAEZ, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")
order denying his motion to reopen removal proceedings. We have jurisdiction

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

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

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under 8 U.S.C. § 1252 and review for abuse of discretion. *See Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003).

The BIA did not abuse its discretion in denying petitioner's third motion to reopen because petitioner's failure to file timely the motion to reopen before the expiration of his voluntary departure period rendered him statutorily ineligible for the relief he sought. *See* 8 U.S.C. § 1229c(d); *de Martinez v. Ashcroft*, 374 F.3d 759, 763 (9th Cir. 2004). Accordingly, respondent's unopposed motion to dismiss, construed as a motion for summary disposition, is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

All other pending motions are denied as moot. The temporary stay of removal shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED.