

AUG 18 2008

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

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

BALBINA DIEGO-JARA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 08-71402

Agency No. A79-529-712

MEMORANDUM*

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

Submitted August 11, 2008**

Before: CANBY, LEAVY and KLEINFELD, Circuit Judges.

This is a petition for review from the Board of Immigration Appeals’
 (“BIA”) March 18, 2008 order denying petitioner’s “motion for administrative

* 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).

closure.” The BIA denied petitioner’s motion because (1) a final order of removal had already been entered against petitioner; and (2) to the extent petitioner’s motion could be construed as a motion to reopen, it was untimely and number-barred.

We review the BIA’s ruling on a motion to reopen for abuse of discretion. *Perez v. Mukasey*, 516 F.3d 770, 773 (9th Cir. 2008).

The BIA did not abuse its discretion in construing petitioner’s motion for administrative closure as a motion to reopen where petitioner sought closure to pursue possible amnesty relief should Congress pass amnesty legislation. Petitioner’s motion was filed after a final administrative order had been entered, and, accordingly, there were no administrative proceedings to close.

In addition, an alien who is subject to a final order of removal is limited to filing one motion to reopen removal proceedings, and that motion must be filed within 90 days of the date of entry of a final order of removal. 8 U.S.C. § 1229a(c)(7)(A), (C)(i); 8 C.F.R. § 1003.2(c)(2). Because petitioner’s motion to reopen was filed beyond the 90-day deadline, and petitioner has not contended that any exceptions to this time limit apply, the BIA did not abuse its discretion in denying petitioner’s untimely motion to reopen. *See id.*

Accordingly, respondent’s unopposed 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) (stating standard).

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

Petitioner's motion for reinstatement of voluntary departure is denied. *See Garcia v. Ashcroft*, 368 F.3d 1157 (9th Cir. 2004).

PETITION FOR REVIEW DENIED.