

JAN 10 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SEVERIANO HERRERA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 07-73658

Agency No. A95-725-763

MEMORANDUM*

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

Submitted January 7, 2008 **

Before: O'SCANNLAIN, SILVERMAN and GRABER, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")
order dismissing petitioner's appeal as untimely.

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

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

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The motion to proceed in forma pauperis is granted. The Clerk shall amend the docket to reflect this status.

The regulations state that a notice of appeal must be filed with the BIA within 30 calendar days of an Immigration Judge's ("IJ") oral decision or the mailing of a written decision. *See* 8 C.F.R. § 1003.38(b), (c). Here, the IJ's decision was rendered on December 14, 2006. The Notice of Appeal was filed with the BIA on August 3, 2007. Because petitioner's notice of appeal was filed past the 30-day deadline, the BIA did not abuse its discretion in dismissing the appeal on that ground.

The questions raised by this petition 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). Accordingly, respondent's unopposed motion for summary denial is granted.

All other pending motions are denied as moot.

PETITION FOR REVIEW DENIED.