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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE JUAN VALERA OLGUIN,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 07-74049

Agency No. A98-148-758

MEMORANDUM*

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

Submitted March 10, 2008**

Before: T.G. NELSON, TASHIMA and BYBEE, Circuit Judges.

This a petition for review of the Board of Immigration Appeals' ("BIA")
September 18, 2007 order denying petitioner's motion to reopen proceedings.

* 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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Respondent's unopposed motion to dismiss is construed as a motion for summary affirmance. So construed, the motion is granted.

A review of the administrative record demonstrates that there is substantial evidence to support the BIA's prior decision finding petitioner statutorily ineligible for cancellation of removal on the sole ground that petitioner had failed to establish continuous physical presence in the United States for a period of not less than ten years. *See* 8 U.S.C. § 1229b(b)(1)(A); *Lopez-Alvarado v. Ashcroft*, 381 F.3d 847, 850-51 (9th Cir. 2004). The BIA did not err in finding that the new evidence submitted by petitioner in support of his motion to reopen had no bearing on that prior decision.

Accordingly, respondent's 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).

Petitioner's request that the court reinstate his voluntary departure is denied. This court lacks jurisdiction to extend the period of voluntary departure. *See Garcia v. Ashcroft*, 368 F.3d 1157, 1159-60 (9th Cir. 2004) (order).

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All other pending motions are denied as moot. The temporary stay of removal confirmed by Ninth Circuit General Order 6.4(c) shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED.