

MAY 16 2008

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

NOT FOR PUBLICATION  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

JAVIER SIRENA SOSA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-74613

Agency No. A77-414-662

MEMORANDUM\*

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

Submitted May 12, 2008\*\*

Before: KOZINSKI, Chief Judge, THOMAS and CALLAHAN, Circuit Judges.

The motion to proceed in forma pauperis is granted.

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\* 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).

Petitioner challenges a decision of the Board of Immigration Appeals (“BIA”) denying his application for cancellation of removal under 8 U.S.C. § 1229b(b)(1) on the basis that he failed to meet the continuous physical presence requirement.

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). The record demonstrates that petitioner was the subject of an expedited removal order on October 28, 1998. An expedited removal order under 8 U.S.C. § 1225(b)(1) interrupts an alien’s continuous physical presence in this country for purposes of cancellation of removal relief. *See Juarez-Ramos v. Gonzales*, 485 F.3d 509, 511 (9th Cir. 2007). Accordingly, this petition for review is denied.

All other pending motions are denied as moot. The temporary stay of removal and voluntary departure confirmed by Ninth Circuit General Order 6.4(c) and *Desta v. Ashcroft*, 365 F.3d 741 (9th Cir. 2004), shall continue in effect until issuance of the mandate.

**PETITION FOR REVIEW DENIED.**