

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 17 2008

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

ROBERTO TEJEDA-MUNGIA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 07-74549

Agency No. A96-226-757

MEMORANDUM*

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

Submitted June 9, 2008**

Before: REINHARDT, BERZON and M. SMITH, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")
order denying petitioner Roberto Tejeda-Mungia'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).

The BIA did not abuse its discretion in denying petitioner's motion to reopen because the motion to reopen was untimely and did not meet any of the regulatory exceptions. *See* 8 C.F.R. § 1003.2(c)(2), (3); *Rodriguez-Lariz v. INS*, 282 F.3d 1218, 1222 (9th Cir. 2002).

Moreover, this court lacks jurisdiction to review the BIA's discretionary decision to decline to exercise its *sua sponte* authority to reopen petitioner's case. *See Ekimian v. INS*, 303 F.3d 1153, 1159 (9th Cir. 2002).

Accordingly, respondent's motion for dismissal, in part, and summary disposition, in part, 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).

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, in part; DISMISSED, in part.