

DEC 16 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JESUS RUIZ-DIAZ,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>MICHAEL B. MUKASEY, Attorney General,</p> <p style="text-align: center;">Respondent.</p>
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No. 08-72828

Agency No. A090-107-215

MEMORANDUM*

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

Submitted December 1, 2008**

Before: GOODWIN, CLIFTON and BEA, Circuit Judges.

This is a petition for review from the Board of Immigration Appeals’
 (“BIA”) order dismissing an appeal of an immigration judge’s denial of
cancellation of removal.

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

Appellant's motion for appointment of counsel is denied.

Respondent has filed a motion for summary disposition in part and for dismissal in part. Respondent's motion for 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). The record reflects that the BIA did not err in concluding that petitioner was removable under 8 U.S.C. § 1227(a)(2)(B) because of his convictions for controlled substances violations. Accordingly, this petition for review is denied in part.

Respondent's motion to dismiss this petition for review in part for lack of jurisdiction is also granted. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *Romero-Torres v. Ashcroft*, 327 F.3d 887, 892 (9th Cir. 2003); *Montero-Martinez v. Ashcroft*, 277 F.3d 1137, 1144 (9th Cir. 2002). Petitioner has failed to raise a colorable constitutional or legal claim to invoke our jurisdiction over this petition for review. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926 (9th Cir. 2005); *Torres-Aguilar v. INS*, 246 F.3d 1267, 1271 (9th Cir. 2001).

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 in part; DISMISSED in part.