

JAN 28 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MAYRA ELIZABETH TABORA,</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>

No. 08-73627

Agency No. A097-866-487

MEMORANDUM*

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

Submitted January 20, 2009**

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

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

* 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).

This is a petition for review of the Board of Immigration Appeals' ("BIA") order construing petitioner's motion to reissue the BIA's decision dismissing petitioner's appeal as one for reconsideration and denying it as untimely.

We review the BIA's ruling on a motion to reconsider for abuse of discretion. *See Lara-Torres v. Ashcroft*, 383 F.3d 968, 972 (9th Cir. 2008).

Petitioner's motion to the BIA did not allege any basis for reissuing the BIA's decision. The BIA did not err in construing the motion to reissue as one for reconsideration and denying it as untimely. An alien who is subject to a final order of removal is limited to filing one motion to reconsider the decision, and that motion must be filed within 30 days of the date of entry of a final order of removal. *See* 8 C.F.R. § 1003.2(b)(2). Because petitioner's motion to reconsider was filed beyond the 30-day deadline, and petitioner has not contended that any exceptions to this time limit apply, the BIA did not abuse its discretion in denying petitioner's untimely motion to reconsider. *See id.*

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) (stating standard).

All other pending motions are denied as moot. The temporary stay of removal shall continue in effect until issuance of the mandate.

PETITION FOR REVIEW DENIED.