

JAN 29 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>HECTOR ARTURO RODRIGUEZ,</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. 08-73086

Agency No. A075-707-330

MEMORANDUM*

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

Submitted January 20, 2009**

Before: O’SANNLAIN, SILVERMAN and BYBEE, Circuit Judges.

This is a petition for review from the Board of Immigration Appeals' ("BIA") order denying petitioner's motion for administrative closure.

Respondent's unopposed motion for summary disposition is granted because

* 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 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 BIA correctly stated that the motion was filed after petitioner's final administrative decision had been entered, and thus, there were no administrative proceedings to close. *See Matter of Lopez-Barrios*, 20 I & N Dec. 203 (BIA 1990).

In addition, to the extent that petitioner's motion could be construed as a motion to reopen removal proceedings, the BIA did not abuse its discretion in concluding that petitioner's second motion to reopen was untimely and number-barred. *See* 8 C.F.R. § 1003.2(c)(2); *Perez v. Mukasey*, 516 F.3d 770, 773 (9th Cir. 2008) (stating that court reviews BIA's ruling on motion to reopen for abuse of discretion). Accordingly, this petition for review is denied.

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.