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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MEHRDAD ROKNI,

Petitioner,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-73858

Agency No. A022-597-821

MEMORANDUM*

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

Submitted February 23, 2009**

Before: KOZINSKI, Chief Judge, HAWKINS and GOULD, Circuit Judges.

This is a petition for review of the Board of Immigration Appeals' ("BIA")
order denying petitioner's untimely motion to reopen.

* 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).

08-73858

We review the BIA's ruling on a motion to reopen for abuse of discretion. *Perez v. Mukasey*, 516 F.3d 770, 773 (9th Cir. 2008). Upon review of the record, the BIA did not abuse its discretion by denying petitioner's untimely motion to reopen based on former counsel's failure to file a timely motion to reopen. The BIA properly determined that former counsel's alleged error was not prejudicial because petitioner's marriage occurred after the time period had expired for filing a timely motion to reopen. Accordingly, respondent's unopposed motion for summary disposition of this petition for review is granted because the questions raised 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). 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.