

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NOT FOR PUBLICATION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>FRANCISCO MEZA-AGUILAR,</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. 08-72576

Agency No. A092-356-826

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.

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 dismissing petitioner's appeal.

Respondent's motion to dismiss this petition for review for lack of jurisdiction is granted in part. *See* 8 U.S.C. § 1252(a)(2)(C); *Flores-Miramontes v. INS*, 212 F.3d 1133 (9th Cir. 2000); *Aragon-Ayon v. INS*, 206 F.3d 847, 849-50 (9th Cir. 2000); *see also* 8 U.S.C. §§ 1101(a)(43)(G) & 1227(a)(2)(A)(iii); *cf.* *United States v. Espinoza-Cano*, 456 F.3d 1126, 1131 (9th Cir. 2006) (applying modified categorical approach to California theft statute that criminalizes more than the taking of property).

Respondent's motion for summary disposition is granted in part 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.

PETITION FOR REVIEW DISMISSED in part; DENIED in part.