

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NOT FOR PUBLICATION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>HECTOR MEDINA BURCIAGA,</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. 08-72728

Agency No. A075-763-964

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 of the Board of Immigration Appeals' ("BIA")  
order denying petitioner's motion for administrative closure.

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\* 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).

Respondent's unopposed 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). First, administrative closure is not available after entry of a final order of removal. *See Matter of Lopez-Barrios*, 20 I. & N. Dec. 203 (BIA 1990). Second, 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); *Lara-Torres v. Ashcroft*, 383 F.3d 968, 972 (9th Cir. 2004) (holding that BIA denials of motions to reopen or reconsider are reviewed for abuse of discretion), *amended by* 404 F.3d 1105 (9th Cir. 2005). Accordingly, this petition for review is denied.

Additionally, this court lacks jurisdiction to review the BIA's refusal to reopen proceedings *sua sponte*. *See Ekimian v. INS*, 303 F.3d 1153, 1159-60 (9th Cir. 2002).

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 in part; DISMISSED in part.**