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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ALEX DANILO CHAVEZ-CAAL,</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. 08-72779

Agency No. A070-780-392

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’ order affirming the Immigration Judge’s (“IJ”) order finding petitioner ineligible for cancellation of removal based on his controlled substance conviction and denying a further request for a continuance.

* 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).

Petitioner does not challenge the agency's finding that he is ineligible for cancellation of removal in light of his conviction for possession for sale of cocaine, in violation of California Health & Safety Code § 11351. *See* 8 U.S.C. § 1229b(b)(1)(C); 8 U.S.C. § 1882(a)(2)(A)(i)(II). Accordingly, 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).

Under 8 C.F.R. § 1003.29, an IJ "may grant a motion for continuance for good cause shown." We review the denial of a motion for continuance for abuse of discretion. *See Sandoval-Luna v. Mukasey*, 526 F.3d 1243, 1246 (9th Cir. 2008). On May 6, 2004, and again on July 22, 2005, the IJ continued proceedings while petitioner sought to vacate his conviction. When proceedings reconvened on March 16, 2007, petitioner informed the IJ that he had not been successful in overturning his conviction. We conclude that the IJ did not abuse its discretion in denying a further continuance given that petitioner's efforts to vacate his conviction over several years had been unavailing. Accordingly, we deny this petition for review in part because the questions raised by this petition are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam).

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 DISMISSED in part; DENIED in part.