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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOSE ISIDRO MALMACEDA
BARRERAS,

Petitioner,

v.

ERIC H. HOLDER, JR., Attorney General,

Respondent.

No. 08-73222

Agency No. A099-737-816

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.

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 denying petitioner's motion for reconsideration of the BIA's April 24, 2008 order. The BIA found that the Immigration Judge properly determined that petitioner was not statutorily eligible for cancellation of removal because he does not have a qualifying relative.

The BIA did not abuse its discretion by denying petitioner's motion for reconsideration because the motion failed to identify any errors of fact or law in the BIA's April 24, 2008 order. *See* 8 C.F.R. § 1003.2(b)(1); *see also* *Membrano v. Gonzales*, 425 F.3d 1227, 1230 n.5 (9th Cir. 2005) (en banc).

Moreover, a review of the administrative record demonstrates that petitioner has presented no evidence that petitioner has a qualifying relative for purposes of cancellation of removal as defined in 8 U.S.C. § 1229b(b)(1)(D). *See Molina-Estrada v. INS*, 293 F.3d 1089, 1093-94 (9th Cir. 2002). The BIA therefore correctly concluded that, as a matter of law, petitioner was ineligible for cancellation of removal. Accordingly, this petition for review is summarily denied 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).

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.