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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOSE OSCAR MARTINEZ,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ERIC H. HOLDER, JR., Attorney General,</p> <p style="text-align: center;">Respondent.</p>

No. 08-74040

Agency No. A095-008-302

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 is a petition for review of the Board of Immigration Appeals' ("BIA") order dismissing petitioner Jose Oscar Martinez's appeal of the Immigration

* 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).

Judge's order denying his motion for a continuance and his application for cancellation of removal.

Respondent's unopposed motion to dismiss this petition for review for lack of jurisdiction in part is granted. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *Romero-Torres v. Ashcroft*, 327 F.3d 887, 892 (9th Cir. 2003); *Montero-Martinez v. Ashcroft*, 277 F.3d 1137, 1144 (9th Cir. 2002).

To the extent that petitioner challenges the Immigration Judge's denial of his motion for a continuance, this petition for review is denied 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). The Immigration Judge did not abuse his discretion in denying petitioner's motion for a continuance. *See Sandoval-Luna v. Mukasey*, 526 F.3d 1243, 1246-47 (9th Cir. 2008) (holding that "[t]he decision to grant or deny a continuance is in the sound discretion of the judge and will not be overturned except on a showing of clear abuse") (internal citations omitted).

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 DISMISSED, in part; DENIED, in part.