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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ROBERTO LOPEZ-MEDINA,</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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Nos. 04-73430  
04-76068

Agency No. A77-589-563

MEMORANDUM\*

On Petitions for Review of Orders of the  
Board of Immigration Appeals

Submitted May 20, 2008\*\*

Before: PREGERSON, TASHIMA, and GOULD, Circuit Judges.

In these consolidated petitions, Roberto Lopez-Medina, a native and citizen of Mexico, seeks review of the Board of Immigration Appeals' ("BIA") orders dismissing his appeal from an immigration judge's ("IJ") decision denying his

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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).

applications for adjustment of status and cancellation of removal (No. 04-73430), and denying his motion to reopen and reconsider (No. 04-76068). We have jurisdiction under 8 U.S.C. § 1252. We grant the petition for review in No. 04-73430, and we dismiss as moot the petition for review in No. 04-76068.

Lopez-Medina contends that the IJ violated his due process rights by discounting his attorney's objection to the August 2, 1999 Form I-213 record of deportable/inadmissible alien, and by admitting it into evidence. Although Lopez-Medina raised these claims in his Notice of Appeal to the BIA, the BIA failed to address them. *See Montes-Lopez v. Gonzales*, 486 F.3d 1163, 1165 (9th Cir. 2007) (“[t]he BIA errs when it fails on appeal to consider and decide claims that the IJ proceedings suffered from procedural irregularity.”). We therefore remand for further proceedings. *See id.*

The IJ denied Lopez-Medina's application for cancellation of removal on both reviewable and unreviewable grounds, and the BIA affirmed without opinion. Because it is impossible to discern whether the BIA affirmed the IJ on a ground over which we have jurisdiction, we also remand for clarification on this issue if necessary. *See Lanza v. Ashcroft*, 389 F.3d 917, 919-20 (9th Cir. 2004).

In light of our decision in No. 04-73430, we dismiss as moot Lopez-Medina's petition for review of the BIA's order denying his motion to reopen and reconsider.

**No. 04-73430: PETITION FOR REVIEW GRANTED; REMANDED.**

**No. 04-76068: PETITION FOR REVIEW DISMISSED.**