

**NOT FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

**FILED**

FEB 05 2009

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

**JOAQUIN GARRIDO SUAREZ,**

Petitioner,

v.

**MICHAEL B. MUKASEY, Attorney  
General,**

Respondent.

No. 04-73658

Agency No. A70-224-976

**MEMORANDUM\***

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted January 16, 2009\*\*  
Pasadena, California

Before: **KOZINSKI**, Chief Judge, **TROTT** and **FISHER**, Circuit Judges.

We lack jurisdiction to review the BIA's November 2004 and February 2005 decisions because petitioner did not file a petition for review after either of these rulings. See Martinez-Serrano v. INS, 94 F.3d 1256, 1257–58 (9th Cir. 1996).

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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).

The BIA did not abuse its discretion in its June 2004 decision reversing the IJ, because the IJ granted petitioner's motion to reopen solely on the basis of an erroneous belief that DHS had failed to oppose the motion. See 8 C.F.R. § 1003.23(b)(4)(iv).

**DISMISSED IN PART AND DENIED IN PART.**