

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

December 18, 2007

Charles R. Fulbruge III  
Clerk

---

No. 07-60261  
Summary Calendar

---

NIVARDO OSORIO-RUANO

Petitioner

v.

MICHAEL B MUKASEY, ACTING U S ATTORNEY GENERAL

Respondent

---

Petition for Review of an Order of the  
Board of Immigration Appeals  
BIA No. A73 706 674

---

Before JOLLY, PRADO, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

Nivardo Osorio-Ruano, a native and citizen of Guatemala, has filed a petition for review of a Board of Immigration Appeals (BIA) decision affirming an Immigration Judge's (IJ) denial of an untimely motion to reopen an in absentia removal proceeding. Osorio argues that the BIA erred and that the IJ erred by declining to exercise sua sponte authority to grant his out-of-time motion to reopen. He contends that the circumstances in his case rise to the level of exceptional circumstances justifying sua sponte reopening. He also

---

\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

argues that this court should remand his case because he is prima facie eligible for relief under the Nicaraguan Adjustment and Central American Relief Act.

This court lacks jurisdiction to review the decision not to exercise its sua sponte authority to reopen Osorio's removal proceedings. See *Enriquez-Alvarado v. Ashcroft*, 371 F.3d 246, 248-50 (5th Cir. 2004). While Osorio relies upon policy considerations that he asserts warrant a remand for consideration of his purported NACARA eligibility, he fails to explain why this court would have authority to remand the case when this court does not have jurisdiction to review the BIA's actions. See 8 C.F.R. § 1003.43(a).

For the foregoing reasons, this court lacks jurisdiction to consider this appeal. The petition for review is therefore DENIED.