

**FILED****FOR PUBLICATION**

JAN 05 2009

**UNITED STATES COURT OF APPEALS**MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS**FOR THE NINTH CIRCUIT****YEWHALASHET ABEBE,**

Petitioner,

v.

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

Respondent.

No. 05-76201

Agency No. A026-810-941

**ORDER****KOZINSKI**, Chief Judge:

The per curiam opinion that was filed November 20, 2008, was filed in error. The opinion accompanying this order is substituted as the opinion of the court. The previously filed concurrence and dissent are unaffected by this order.

The petition for rehearing remains pending. Within 14 days, respondent shall file a response to the petition. Petitioner may reply within 14 days of the response; the reply shall not exceed the length permitted for the response. See 9th Cir. R. 40-1.