

FILED

JAN 05 2009

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

FOR PUBLICATION

UNITED STATES 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.