

October 18, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-61086  
Summary Calendar

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JUAN MANUEL OTAVALO-SALINAS,

Petitioner,

versus

ALBERTO R. GONZALES, U.S. ATTORNEY GENERAL,

Respondent.

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Petition for Review of an Order of the  
Board of Immigration Appeals  
BIA No. A72 015 374  
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Before JONES, Chief Judge, and HIGGINBOTHAM and SMITH, Circuit  
Judges.

PER CURIAM:\*

Juan Manuel Otavalo-Salinas (Otavalo), a native and citizen of Ecuador, petitions this court to review the decision of the Board of Immigration Appeals (BIA) affirming the immigration judge's denial of Otavalo's out-of-time motion to reopen his deportation proceeding. According to Otavalo, the BIA and the immigration judge (IJ) should have exercised their discretion to reopen the proceeding despite the fact that he failed to file the motion on or before the September 30, 1996, deadline provided in 8 C.F.R.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

§ 1003.23(b)(1). We have held that we lack jurisdiction "to consider whether the [BIA] should have compelled the [IJ] to reopen a case based on the IJ's sua sponte authority." See Enriquez-Alvarado v. Ashcroft, 371 F.3d 246, 247-50 (5th Cir. 2004). Accordingly, the petition for review is DISMISSED.