

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 20 2004

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

BENJAMIN CABRERA-GOMEZ; et al.,

Petitioners,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

No. 03-73811

Agency Nos. A75-710-964
A75-710-965

ORDER

Before: CANBY and PAEZ, Circuit Judges

Respondent's motion to dismiss this petition for review for lack of jurisdiction is denied without prejudice to renewing the arguments in the answering brief. *See National Indus. v. Republic Nat'l Life Ins. Co.*, 677 F.2d 1258, 1262 (9th Cir. 1982) (merits panel can consider appellate jurisdiction despite earlier denial of motion to dismiss). The parties shall also address in the briefs whether this court lacks jurisdiction over this petition for review because there may be no valid, final order of removal. *See Noriega-Lopez v. Ashcroft*, 335 F.3d 874, 884 n.10 (9th Cir. 2003).

The motion for a stay of removal and voluntary departure pending review is granted.

03-73811

The certified administrative record is due June 28, 2004; the opening brief is due August 9, 2004; the answering brief is due September 8, 2004; and the optional reply brief is due 14 days after service of the answering brief.