

June 14, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-60700
Summary Calendar

ANA FELICITA NIETO-BAQUERO,

Petitioner,

versus

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

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A79 005 551

Before REAVLEY, JOLLY and HIGGINBOTHAM, Circuit Judges.

PER CURIAM:*

Felicita Nieto-Baquero petitions for review of the Board of Immigration Appeals' ("BIA") decision denying her application for asylum and withholding of removal. She makes no argument regarding the BIA's denial of relief under the Convention Against Torture or denial of voluntary departure, and those arguments are waived. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993).

This court lacks jurisdiction to consider the denial of Nieto-Baquero's application for asylum because the BIA denied the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

application as untimely. 8 U.S.C. § 1158(a)(3). Regarding the denial of withholding of removal, substantial evidence supports the determination that Nieto-Baquero is not eligible for such relief. The evidence does not compel the conclusion that the BIA erred in determining that she was not a member of a "social group" with a common, immutable characteristic entitled to protection under the Immigration and Naturalization Act ("INA"). See Ontunez-Tursios v. Ashcroft, 303 F.3d 341, 352 (5th Cir. 2002); In re Acosta, 19 I. & N. Dec. 211, 233 (BIA 1985); see also Efe v. Ashcroft, 293 F.3d 899, 906 (5th Cir. 2002); Chun v. INS, 40 F.3d 76, 78 (5th Cir. 1994).

The petition for review is DENIED.