

**FILED**

March 17, 2004

Charles R. Fulbruge III  
Clerk

UNITED STATES COURT OF APPEALS  
FIFTH CIRCUIT

---

No. 03-60500  
Summary Calendar

---

EDITH RODRIGUEZ-DEARMY, also known as Edith Aird,

Petitioner,

versus

JOHN ASHCROFT, U.S. ATTORNEY GENERAL,

Respondent.

---

Appeal from the United States District Court  
for the Northern District of Texas  
(A75-231-586)

---

Before BARKSDALE, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:\*

Edith Rodriguez-DeArmy petitions for review of an order by the Board of Immigration Appeals (BIA) denying her motion to reopen based on her marriage to a United States citizen and the filing of an alien relative petition on her behalf. Rodriguez contends that the BIA erred in stating that a prior visa petition filed on her behalf was denied due to marriage fraud.

The BIA did note that the Department of Homeland Security opposed the motion to reopen on the basis that the prior visa

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

petition was denied for marriage fraud. But, the basis for denial of the petition was that Rodriguez failed to make a *prima facie* showing that she was eligible for relief from removal. Rodriguez has not shown that she meets the five factors set forth in ***Matter of Velarde-Pacheco***, 23 I&N Dec. 253, 256 (BIA 2002), for granting a motion to reopen. Therefore, she has not shown that the BIA abused its discretion in denying her motion. See ***De Morales v. INS***, 116 F.3d 145, 147 (5th Cir. 1997).

***DENIED***