

January 6, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-60956
Summary Calendar

SHEHLA SHEIKH,

Petitioner,

versus

JOHN ASHCROFT, U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A72-450-369

Before DAVIS, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:*

Petitioner Shehla Sheikh seeks review of an order from the Board of Immigration Appeals ("BIA") denying a motion to reconsider the denial of a motion to reopen deportation proceedings. Sheikh and her husband, Mirza A. Baig, remained in the United States beyond their voluntary departure date, and the BIA held that they were statutorily ineligible for an adjustment of status and denied a motion to reopen. Sheikh contends that "exceptional circumstances" exist to excuse her failure to depart under voluntary departure, thereby warranting the reopening of

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the proceedings. She further argues that the BIA violated due process by denying the motion to reopen before the Immigration and Naturalization Service responded to a request for an extension of the voluntary departure date.

Sheikh's brief is nearly identical to the brief filed by Baig in a separate petition for review, which we have already denied. Therefore, for substantially the same reasons previously articulated in Baig's appeal, Sheikh's petition for review is denied. See Baig v. Ashcroft, No. 03-60592 (5th Cir. Aug. 25, 2004) (unpublished).

PETITION DENIED.