

January 24, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-61036
Summary Calendar

TSEHAY HAYLE EYOB,

Petitioner,

versus

JOHN ASHCROFT, U.S. Attorney General,

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A76-916-248

Before JONES, BARKSDALE and PRADO, Circuit Judges.

PER CURIAM:*

Tsehay Hayle Eyob has filed a petition for review of a decision by the Board of Immigration Appeals (BIA) denying her motion for reconsideration of its previous decision denying her motion to reopen removal proceedings to apply for adjustment of status. Eyob contends that the BIA erred in denying her motion because (1) she was still statutorily eligible for adjustment of status as her voluntary-departure period had not expired; and (2)

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 BIA incorrectly construed the evidence submitted with her motion for reconsideration as a second motion to reopen.

Eyob has not shown that the BIA abused its discretion in denying her motion for reconsideration of the denial of her motion to reopen removal proceedings. See Osuchukwu v. INS, 744 F.2d 1136, 1141 (5th Cir. 1984). Nor has Eyob shown that the BIA erred by construing the evidence she submitted with her motion for reconsideration as a second motion to reopen. Accordingly, the petition for review of the BIA's decision is DENIED. Eyob's motions for stays of deportation and voluntary departure are also DENIED.