

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

August 20, 2013

Lyle W. Cayce
Clerk

No. 12-60803
Summary Calendar

VERONICA JANET ONATE-AVILAR,

Petitioner

v.

JANET NAPOLITANO, SECRETARY, DEPARTMENT OF HOMELAND
SECURITY,

Respondent

Petition for Review of an Order
of the Department of Homeland Security
DHS No. A092 950 296

Before REAVLEY, JONES, and PRADO, Circuit Judges.

PER CURIAM:*

The Petitioner, Veronica Janet Onate-Avilar, seeks review of the decision of the Department of Homeland Security to reinstate the order of her removal after her conviction of an aggravated felony. She was deported in 1999 but now in the United States objects to reinstatement of the prior order pursuant to 8 U.S.C. § 1231(a)(5).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 12-60803

This court has jurisdiction to review only a claim of constitutional or legal error. We find none.

Petitioner argues only that the order of reinstatement lacks proof that she has illegally reentered the United States, and that she was denied the right to make a statement.

For the reinstatement, no hearing is conducted and it is only necessary for the immigration officer to determine the identity, to obtain the prior order of removal, and to determine the unlawful reentry by considering her statements and any relevant evidence. 8 C.F.R. § 241.8(a)(1)–(3). In this case, the officer inquired and was told by her that she was present in the United States without documents to allow it. She then and at no other time has claimed legal reentry to this country. This court cannot fault the determination of the officer.

Her claim that she was denied the opportunity to make a statement is explained by her refusal to do so without the presence of an attorney. There is no suggestion for what could have been said or to warrant participation by an attorney. No prejudice is suggested.

The petition is DENIED.