

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

United States Court of Appeals  
Fifth Circuit

**FILED**

July 15, 2013

Lyle W. Cayce  
Clerk

---

No. 12-60941  
Summary Calendar

---

LINAS BARANAUSKAS,

Petitioner,

versus

ERIC H. HOLDER, JR., U.S. Attorney General,

Respondent.

---

Petition for Review of an Order of  
the Board of Immigration Appeals  
No. A 077 661 766

---

Before JOLLY, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:\*

Linas Baranauskas, a native and citizen of Lithuania and an illegal alien,

---

\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 12-60941

petitions for review of an order of the Board of Immigration Appeals (“BIA”) dismissing his appeal of (1) the denial by an immigration judge (“IJ”) of his motion to reopen his removal proceedings and rescind the *in absentia* removal order issued against him and (2) the denial of his request for *sua sponte* reopening. There is no dispute that Baranauskas’s motion to reopen was not filed within 180 days after the order of removal. *See* 8 U.S.C. § 1229a(b)(5)(C)(i); 8 C.F.R. § 1003.23(b)(4)(ii). In that motion, Baranauskas sought equitable tolling based on alleged misinformation from an immigration consultant.

The BIA did not abuse its discretion in construing Baranauskas’s equitable-tolling argument as a request for the IJ to reopen the removal proceedings *sua sponte*. *See Ramos-Bonilla v. Mukasey*, 543 F.3d 216, 220 (5th Cir. 2008). To the extent Baranauskas argues that the BIA erred in dismissing the appeal of the IJ’s denial, the petition for review is DENIED. To the extent Baranauskas challenges the basis for the BIA’s dismissal of his appeal from the IJ’s refusal to reopen, the petition for review is DISMISSED for want of jurisdiction. *See id.*