

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

United States Court of Appeals
Fifth Circuit

FILED

June 8, 2015

Lyle W. Cayce
Clerk

No. 14-60303
Summary Calendar

LOURDES VERONICA FUNEZ-MARTINEZ,

Petitioner

v.

LORETTA LYNCH, U.S. ATTORNEY GENERAL,

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A098 993 225

Before DAVIS, CLEMENT, and COSTA, Circuit Judges.

PER CURIAM:*

Lourdes Veronica Funez-Martinez (Funez) has petitioned for review of the decision of the Board of Immigration Appeals (BIA) dismissing her appeal from the immigration judge's (IJ's) decision denying her motion to reopen removal proceedings sua sponte and to rescind its 2005 in absentia removal order. The BIA held that sua sponte reopening was not warranted, notwithstanding a state court order giving Funez custody of her minor child

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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and determining that it was in the child's best interest to remain in the United States.

Funez's arguments in this court are limited to the question whether the BIA erred in failing to exercise its sua sponte authority to reopen the removal proceedings in light of the state court's order. Funez has failed to show that there is a legal question or constitutional claim that would support this court's exercise of jurisdiction over the agency's refusal to exercise its discretion to reopen the removal proceedings sua sponte. *See Bustamante-Barrera v. Gonzales*, 447 F.3d 388, 400-01 (5th Cir. 2006); *Ramos-Bonilla v. Mukasey*, 543 F.3d 216, 220 (5th Cir. 2008). To the extent that Funez-Martinez's removal will affect her daughter, the proper vehicle for raising that issue is a cancellation of removal proceeding. *See* 8 U.S.C. § 1229b(b). The petition for review is DISMISSED.