

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

No. 14-60715
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 20, 2015

Lyle W. Cayce
Clerk

GURVINDER SINGH,

Petitioner

v.

LORETTA LYNCH, U. S. ATTORNEY GENERAL,

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A201 292 076

Before SMITH, PRADO, and OWEN, Circuit Judges.

PER CURIAM:*

Gurvinder Singh petitions for review of the Board of Immigration Appeals's (BIA) order denying his motion to reconsider. Singh contends that the BIA failed to construe his motion to reconsider as a motion to reopen based on ineffective assistance of counsel and erred in concluding that his motion was untimely and number-barred. The respondent moves for summary disposition of the petition for review in lieu of filing a brief.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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The BIA construed Singh's motion as, in part, a motion to reopen. An alien may file only one motion to reopen. 8 U.S.C. § 1229a(c)(7)(A); 8 C.F.R. § 1003.2(c)(2). The motion at issue is Singh's third motion to reopen. The exception to the numerical restriction for a motion to reopen an order entered in absentia or in removal proceedings is not applicable to his motion to reopen. *See* §§ 1003.2(c)(3); § 1003.23(b)(4)(ii). Thus, the BIA did not abuse its discretion in denying the motion as number-barred. *See Zhao v. Gonzales*, 404 F.3d 295, 303 (5th Cir. 2005).

Singh's petition for review is DENIED. The respondent's motion for summary disposition of the petition for review in lieu of filing a brief is GRANTED.