

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

No. 17-60079
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 12, 2018

Lyle W. Cayce
Clerk

CESAR MISAEL GIRAL-BENITEZ,

Petitioner

v.

JEFFERSON B. SESSIONS, III, U. S. ATTORNEY GENERAL,

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A091 983 600

Before WIENER, DENNIS, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Cesar Misael Giral-Benitez petitions for review of the decision of the Board of Immigration Appeals (BIA) to deny his motion to reopen. For the reasons that follow, we lack jurisdiction to review the BIA's decision.

We lack jurisdiction to review the BIA's refusal to exercise its regulatory authority to reopen the removal proceeding *sua sponte*. See *Gonzalez-Cantu v. Sessions*, 866 F.3d 302, 306 & n.6 (5th Cir. 2017), *cert. denied*, No. 17-653, 2018

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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WL 311388 (U.S. Jan. 8, 2018). We have jurisdiction to review the denial of a statutory motion to reopen based on equitable tolling. *See Lugo-Resendez v. Lynch*, 831 F.3d 337, 343–44 (5th Cir. 2016). However, Giral-Benitez did not exhaust an argument for equitable tolling of the statutory deadline. Accordingly, we lack jurisdiction to consider Giral-Benitez’s unexhausted equitable tolling argument. *See Lopez-Dubon v. Holder*, 609 F.3d 642, 644 (5th Cir. 2010).

Giral-Benitez’s petition for review is DISMISSED for lack of jurisdiction.