

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

No. 19-60183
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
February 11, 2020

Lyle W. Cayce
Clerk

KATIA LARIZZA MEDRANO; PERLA LARIZZA NUNEZ-MEDRANO,

Petitioners,

versus

WILLIAM P. BARR, U.S. Attorney General,

Respondent.

Petition for Review of an Order of
the Board of Immigration Appeals
No. A 206 464 372
No. A 206 464 373

Before DAVIS, SMITH, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Katia Medrano and her daughter, Perla Nunez-Medrano, sought asylum

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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based on Medrano's membership in a particular social group, "Honduran women who are not able to leave their relationship." The Board of Immigration Appeals ("BIA") upheld the denial of relief by the immigration judge, who determined that Medrano was able to leave her abusive domestic relationship. Medrano moved to reopen the proceeding, asserting that she had new evidence that her former abuser had joined a gang and was still expressing a desire to kill her and her daughter. The BIA denied the motion, determining that the new evidence was largely cumulative and that Medrano had failed to show that the Honduran police would not assist her. Medrano sought reconsideration, arguing that her particular social group should be considered as valid and cognizable and that the BIA had wrongly concluded that the evidence was cumulative. The BIA denied the motion for reconsideration.

Medrano filed a petition for review, contending that the BIA abused its discretion because the evidence presented with her motion to reopen was not cumulative. In addition, Medrano maintains that the BIA erred in determining that she had failed to establish her membership in a particular social group, given that Torres continued to threaten her and still expressed a belief that Medrano belonged to him.

Because Medrano's petition for review was timely only as to the denial of the motion for reconsideration, that is the only ruling properly before this court. *See Guevara v. Gonzales*, 450 F.3d 173, 176 (5th Cir. 2006); *Navarro-Miranda v. Ashcroft*, 330 F.3d 672, 676 (5th Cir. 2003). For the BIA to grant a motion to reconsider, an alien must "identify a change in the law, a misapplication of the law, or an aspect of the case that the BIA overlooked." *Chambers v. Mukasey*, 520 F.3d 445, 448 (5th Cir. 2008). We review the denial of a motion for reconsideration "under a highly deferential abuse of discretion standard." *Le v. Lynch*, 819 F.3d 98, 104 (5th Cir. 2016).

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To the extent that Medrano is challenging the original determination that she was not eligible for asylum because she failed to show her membership in a particular social group, we lack jurisdiction because Medrano did not file a timely petition for review from that ruling. *See Guevara*, 450 F.3d at 176. With respect to her challenge to the BIA's failure to reconsider the denial of the motion to reopen, Medrano has not established that the BIA's finding that the new evidence presented was cumulative was "capricious, irrational, [or] utterly without foundation in the evidence." *Mendias-Mendoza v. Sessions*, 877 F.3d 223, 227 (5th Cir. 2017) (internal quotation marks and citation omitted).

If Medrano's claims are read as an assertion that the BIA failed to consider the fact that Torres's gang membership affected the determination that she had left the relationship, a claim that the BIA overlooked an aspect of the case is proper in a motion for reconsideration. *See Chambers*, 520 F.3d at 448. But Medrano has not shown that a failure to focus on Torres's subjective belief of a continuing relationship, as distinguished from his physical departure from the home he shared with Medrano, was irrational or without foundation in the evidence. *See Mendias-Mendoza*, 877 F.3d at 227.

Accordingly, the petition for review is DISMISSED in part for lack of jurisdiction and DENIED in part.