

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

March 11, 2024

Lyle W. Cayce  
Clerk

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No. 23-60406  
Summary Calendar

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MARIA J. HERNANDEZ FLORES,

*Petitioner,*

*versus*

MERRICK GARLAND, *U.S. Attorney General,*

*Respondent.*

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Petition for Review of an Order of the  
Board of Immigration Appeals  
Agency No. A075 386 347

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Before HIGGINBOTHAM, STEWART, and SOUTHWICK, *Circuit Judges.*

PER CURIAM:\*

Maria J. Hernandez Flores, a native citizen of Mexico, petitions for review of a Board of Immigration Appeals (“BIA”) decision dismissing her appeal from an Immigration Judge’s (IJ) order denying her motion to reopen her proceedings.

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\* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.4.

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We review the BIA's decision and consider the IJ's ruling only insofar as it influenced the BIA. *Singh v. Sessions*, 880 F.3d 220, 224 (5th Cir. 2018). Motions to reopen are "disfavored," and their denial is reviewed for an abuse of discretion. *Mauricio-Benitez v. Sessions*, 908 F.3d 144, 147 (5th Cir. 2018). Consequently, this court will let the denial of such a motion stand unless it is "capricious, without foundation in the evidence, or otherwise so irrational that it is arbitrary rather than the result of any perceptible rational approach." *Id.* (quotation marks and citation omitted). The BIA's factual findings are reviewed for substantial evidence and may be overturned only "if the evidence compels a contrary conclusion." *Id.*

Hernandez Flores has not shown the evidence compels a contrary finding on the key fact of whether she was offered voluntary departure. Her assertion that the offer was made is the foundation of her argument for reopening her proceedings. The absence of compelling evidence means she has not shown the BIA abused its discretion by denying her motion.

Any contention that the BIA erred by not reopening her proceedings *sua sponte* because her due process rights were infringed is likewise unavailing. Due process claims are not cognizable with respect to reopening proceedings because "no liberty interest exists in a motion to reopen." *Mejia v. Whitaker*, 913 F.3d 482, 490 (5th Cir. 2019).

Finally, the BIA did not abuse its discretion when accepting the Government's late-filed form brief.

The petition for review is DENIED.