

United States Court of Appeals for the Fifth Circuit

No. 24-60534
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

June 5, 2025

Lyle W. Cayce
Clerk

AMATH DIOME,

Petitioner,

versus

PAMELA BONDI, *U.S. Attorney General,*

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
Agency No. A241 410 063

Before ELROD, *Chief Judge*, and HAYNES, and DUNCAN, *Circuit Judges*.

PER CURIAM:*

Amath Diome, a native and citizen of Senegal, petitions for review of the decision of the Board of Immigration Appeals (BIA) denying his motion for reconsideration of his motion to accept his late-filed appellate brief and dismissal of his appeal.

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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“We review the denial of a motion to reconsider under an abuse-of-discretion standard.” *Jaco v. Garland*, 24 F.4th 395, 401 (5th Cir. 2021) (citation omitted). Questions of law underlying the BIA’s decision are reviewed de novo, and the BIA’s factual findings are reviewed under the substantial evidence standard. *Garcia v. Garland*, 28 F.4th 644, 646 (5th Cir. 2022).

Diome challenges the BIA’s findings that he failed to timely file his appellate brief in the first place when he misfiled it in the immigration court. However, he has failed to identify “a change in the law, a misapplication of the law, or an aspect of the case that the BIA overlooked” in denying his motion to accept his late-filed brief. *Gonzales-Veliz v. Barr*, 938 F.3d 219, 226 (5th Cir. 2019) (internal quotation marks and citation omitted). Additionally, insofar as Diome argues that the BIA’s prior decision on appeal depended on its finding that he untimely filed his brief in the immigration court and not that he untimely filed his brief in the BIA, he previously conceded in his motion to accept his late-filed brief that he untimely filed the brief in the BIA, and the BIA’s decision on appeal reflects that the BIA found that the brief was untimely filed in the BIA. The evidence does not compel a conclusion contrary to that of the BIA. *See Chen v. Gonzales*, 470 F.3d 1131, 1134 (5th Cir. 2006).

Diome further argues that the BIA abused its discretion by declining to consider his late-filed brief. However, he fails to show that the BIA’s decision to enforce its procedural rules and reject consideration of his late-filed brief was “capricious, racially invidious, utterly without foundation in the evidence, or otherwise so irrational that it is arbitrary rather than the result of any perceptible rational approach.” *Jaco*, 24 F.4th at 401 (internal quotation marks and citation omitted); *see* 8 C.F.R. § 1003.3(c)(1).

The petition for review is DENIED.