

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

United States Court of Appeals
Fifth Circuit

FILED

October 28, 2014

Lyle W. Cayce
Clerk

No. 13-60625
Summary Calendar

RAFAEL MARTINEZ RODRIGUEZ, also known as Rafael Martinez,

Petitioner

v.

ERIC H. HOLDER, JR., U. S. ATTORNEY GENERAL,

Respondent

Petitions for Review of an Order of the
Board of Immigration Appeals
BIA No. A036 421 288

Before STEWART, Chief Judge, and ELROD and HIGGINSON, Circuit
Judges.

PER CURIAM:*

Rafael Martinez Rodriguez (Martinez), a native and citizen of Mexico, petitions for review of both the order of the Board of Immigration Appeals (BIA) denying his motion to reopen removal proceedings and his motion to reconsider that denial. He does not challenge the BIA's holding that his motion to reopen was untimely under 8 U.S.C. § 1229a(c)(7)(C)(i) and 8 C.F.R.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

No. 13-60625

§ 1003.2(c) but, rather, argues only that the BIA abused its discretion by holding that (1) the departure bar set forth in § 1003.2(d) prevented it from exercising its sua sponte authority to reopen and (2) even if the departure bar did not apply, sua sponte reopening pursuant to § 1003.2(a) was not warranted.

Contrary to Martinez's assertions, this court lacks jurisdiction to consider his challenge to the BIA's decision not to exercise its sua sponte authority to reopen. *See Ramos-Bonilla v. Mukasey*, 543 F.3d 216, 220 (5th Cir. 2008). As Martinez's motion to reopen was time barred, we need not address his arguments regarding the BIA's application of the departure bar. *See id.* His petitions for review are DISMISSED for lack of jurisdiction.