

United States Court of Appeals
for the Fifth Circuit

No. 23-60097
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 16, 2023

Lyle W. Cayce
Clerk

BASIL UZOMA ONYIDO,

Petitioner,

versus

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

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
Agency No. A029 891 590

Before BARKSDALE, GRAVES, and OLDHAM, *Circuit Judges.*

PER CURIAM:*

Proceeding *pro se*, Basil Uzoma Onyido, a native and citizen of Nigeria who was deported to Nigeria in 1999, petitions for review of a Board of Immigration Appeals' (BIA) order denying his sixth motion to reopen and reconsider. *See, e.g., Jaco v. Garland*, 24 F.4th 395, 400 (5th Cir. 2021) ("We construe the filings of pro se litigants liberally.").

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

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“[Our] court reviews the denial of motions to reopen and for reconsideration under a highly deferential abuse-of-discretion standard.” *Gonzalez Hernandez v. Garland*, 9 F.4th 278, 283 (5th Cir. 2021). We will affirm “so long as it is not 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”. *E.g., Zhao v. Gonzales*, 404 F.3d 295, 304 (5th Cir. 2005) (citation omitted).

An alien may file only one motion to reopen unless an exception—inapplicable here—applies. 8 U.S.C. § 1229a(c)(7)(A). When a motion to reopen is number-barred, the resulting petition for review “must be denied”. *Djie v. Garland*, 39 F.4th 280, 287–88 (5th Cir. 2022). An alien is likewise limited to only one motion to reconsider. 8 U.S.C. § 1229a(c)(6)(A).

Because this is not Onyido’s first motion either to reopen or to reconsider, the BIA did not abuse its discretion in denying his motion. In addition, our court lacks jurisdiction to review the BIA’s refusal *sua sponte* to reopen proceedings. *E.g., Qorane v. Barr*, 919 F.3d 904, 911–12 (5th Cir. 2019).

DISMISSED in part and DENIED in part.