

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

June 1, 2021

Lyle W. Cayce
Clerk

No. 20-60432
Summary Calendar

ARACELY CANO-LUNA,

Petitioner,

versus

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

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A 202-124-459

Before DAVIS, STEWART, and DENNIS, *Circuit Judges.*

PER CURIAM:*

Aracely Cano-Luna, a native and citizen of Mexico, petitions for review of an order of the Board of Immigration Appeals (BIA) dismissing her appeal from an order of removal and the denial of her application for cancellation of removal, 8 U.S.C. § 1229b(b)(1). She requests, in the

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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alternative, voluntary departure, 8 U.S.C. § 1229c. Cano-Luna argues that she is eligible for cancellation of removal because her conviction under Texas Penal Code § 32.51 did not occur within five years of her admission to the U.S.

This court reviews its subject matter jurisdiction de novo. *Garcia-Melendez v. Ashcroft*, 351 F.3d 657, 660 (5th Cir. 2003). Cano-Luna never argued to the BIA that her conviction under TEX. PENAL CODE § 32.51 could not prevent her from seeking cancellation of removal because it occurred more than five years after she was allegedly admitted. Her sole argument before the BIA regarding cancellation was that the immigration judge should have applied a modified categorical approach to determine whether her conviction involved a crime of moral turpitude. She similarly failed to raise the issue of voluntary departure before the BIA, and she did not file a motion to reopen or reconsider despite the BIA deeming the issue waived. *See Claudio v. Holder*, 601 F.3d 316, 319 (5th Cir. 2010). Therefore, Cano-Luna failed to exhaust her administrative remedies thus depriving this court of jurisdiction to review her petition. *Omari v. Holder*, 562 F.3d 314, 318 (5th Cir. 2009); *Roy v. Ashcroft*, 389 F.3d 132, 137 (5th Cir. 2004). She has abandoned all other grounds raised before the BIA. *See Soadjede v. Ashcroft*, 324 F.3d 830, 833 (5th Cir. 2003) (treating issues that were not raised and briefed in a petition for review as abandoned).

The petition for review is DISMISSED.