

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

July 14, 2022

Lyle W. Cayce
Clerk

No. 20-60891
Summary Calendar

BITHIAH ABIGAIL LOPEZ-CRISTALES,

Petitioner,

versus

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

Respondent.

Petition for Review of an Order of
the Board of Immigration Appeals
No. A 206 736 739

Before SMITH, DENNIS, and SOUTHWICK, *Circuit Judges.*

PER CURIAM:*

Bithiah Lopez-Cristales, a native and citizen of El Salvador, petitioned for review of a decision of the Board of Immigration Appeals (“BIA”) dismissing her appeal of an order of the immigration judge (I.J.) denying her application for asylum, withholding of removal, and protection under 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* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

Convention Against Torture (“CAT”). Because the BIA has since granted a motion to reopen and has remanded to the I.J. for further proceedings, the parties have filed a joint motion to dismiss the instant petition for review for want of jurisdiction.

We generally have jurisdiction to review a “final order of removal.” 8 U.S.C. § 1252(a)(1). An order of removal is final when the BIA affirms an I.J.’s decision or when the time for appealing an I.J.’s decision has expired. *Id.* § 1101(a)(47)(B). Because we may review a final order of removal only if “the applicant has exhausted all administrative remedies of right,” failure to exhaust results in a jurisdictional bar to review. *Roy v. Ashcroft*, 389 F.3d 132, 137 (5th Cir. 2004); § 1252(d)(1).

The BIA has ordered that the proceedings be reopened and has remanded to the I.J. “for the entry of a new decision” related to Lopez-Cristales’s request for relief based on her membership in a particular social group. The BIA must address any claims arising from these proceedings before Lopez-Cristales can assert them before this court. *See Roy*, 389 F.3d at 137. Because Lopez-Cristales is currently pursuing administrative remedies below, she is no longer subject to a final order of removal that we have jurisdiction to review. *See id.*

Accordingly, the motion to dismiss is GRANTED, and the petition for review is DISMISSED for want of jurisdiction. The motion to stay is DENIED as unnecessary.