

United States Court of Appeals for the Fifth Circuit

No. 25-60650
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 25, 2026

Lyle W. Cayce
Clerk

CESAR SANDOVAL ORTIZ,

Petitioner,

versus

TODD WALLACE BLANCHE, *U.S. Attorney General,*

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
Agency No. A044 444 342

Before CLEMENT, SOUTHWICK, and OLDHAM, *Circuit Judges.*

PER CURIAM:*

The government ordered Cesar Sandoval Ortiz, a native and citizen of the Dominican Republic, removed from the United States because he was convicted of an aggravated narcotics felony. *See* 8 U.S.C. § 1227(a)(2)(A)(iii). Sandoval Ortiz moved to reopen his removal proceedings, asserting that a third party had emailed a document to the

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

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immigration court that was material to his claims for relief and protection from removal. Sandoval Ortiz also argued that because the immigration judge (“IJ”) did not consider the document, he did not receive a full and fair hearing as required by the Due Process Clause of the Fifth Amendment. The IJ denied Sandoval Ortiz’s motion and declined to reopen the proceedings sua sponte. The Board of Immigration Appeals (“BIA”) adopted and affirmed the IJ’s decision. Sandoval Ortiz, proceeding pro se, petitions for review of this decision.

Because the BIA adopted and affirmed the IJ’s decision without opinion, we review the IJ’s decision. *Martinez-Lopez v. Barr*, 943 F.3d 766, 769 (5th Cir. 2019) (per curiam). We begin by assessing our jurisdiction, which we review de novo. *Penalva v. Sessions*, 884 F.3d 521, 523 (5th Cir. 2018).

Generally, we have jurisdiction to review final orders of removal. 8 U.S.C. § 1252(a)(1). But Congress has stripped us of jurisdiction over certain categories of removal orders. *Wilkinson v. Garland*, 601 U.S. 209, 218 (2024) (citing 8 U.S.C. § 1252(a)(2)). Relevant here, the Immigration and Nationality Act (“INA”) provides that “no court shall have jurisdiction to review any final order of removal against an alien who is removable by reason of having committed” an aggravated felony. 8 U.S.C. § 1252(a)(2)(C) (referencing 8 U.S.C. § 1227(a)(2)(A)(iii)). However, this jurisdictional bar does not apply to “constitutional claims or questions of law raised upon a petition for review.” *Id.* § 1252(a)(2)(D); see *Penalva*, 884 F.3d at 523–24. Under § 1252(a)(2)(D), we have jurisdiction to review “mixed questions of law and fact,” but we may not review any factual findings underlying a denial of relief. *Wilkinson*, 601 U.S. at 218–19.

In light of these standards, we lack jurisdiction to review the denial of Sandoval Ortiz’s motion to reopen. Sandoval Ortiz is removable because he

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was convicted of the aggravated felony of conspiracy to possess with intent to distribute a controlled substance in violation of 21 U.S.C. §§ 841(a)(1) and 846. *See* 8 U.S.C. § 1101(43)(B), (U) (defining “aggravated felony” to include a conspiracy to traffic in a controlled substance). Thus, the INA’s jurisdictional bar applies. *Id.* § 1252(a)(2)(C).

The denial of a motion to reopen may in some circumstances present a mixed question of fact and law that is reviewable under § 1252(a)(2)(D), but here, Sandoval Ortiz challenges the factual findings underlying the denial of his motion. Sandoval Ortiz asserts that the third party properly submitted documentation to the immigration court via email and the court confirmed receipt, yet the IJ “ignored” it. This argument disputes the IJ’s factual finding, adopted by the BIA, that the court did not receive any paperwork from the third party, and even if it had, the email would not have constituted a proper filing. We lack jurisdiction to review this factual finding that “formed the basis for the denial” of Sandoval Ortiz’s motion to reopen. *Wilkinson*, 601 U.S. at 221.

Moreover, we lack jurisdiction to review the BIA’s decision not to reopen the proceedings sua sponte. *Qorane v. Barr*, 919 F.3d 904, 911 (5th Cir. 2019). “[T]he decision to refrain from exercising that authority is ‘committed to agency discretion by law,’” so we cannot review Sandoval Ortiz’s petition “insofar as he believes the BIA should have reopened on this basis.” *Id.* at 912 (quoting 5 U.S.C. § 701(a)(2)).

That said, we do have jurisdiction to review Sandoval Ortiz’s due process argument. 8 U.S.C. § 1252(a)(2)(D). But that argument fails because the denial of a motion to reopen cannot violate the Due Process Clause. *Altamirano-Lopez v. Gonzales*, 435 F.3d 547, 550 (5th Cir. 2006) (per curiam). “[T]here is no liberty interest at stake in a motion to reopen” because the “decision to grant or deny a motion to reopen is purely discretionary.” *Id.*

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(citing 8 C.F.R. § 1003.23(b)(1)(iv)). Indeed, “[e]ven if a moving party has established a prima facie case for relief, an IJ can still deny a motion to reopen.” *Id.* (citing 8 C.F.R. § 1003.23(b)(3)). Thus, Sandoval Ortiz’s due process argument is unavailing.

For these reasons, the petition for review is DISMISSED in part for lack of jurisdiction and DENIED in part. Sandoval Ortiz’s motion to expedite consideration of his petition for review is DENIED as moot.