

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-1058

IRINA BRIGADIN,

Petitioner,

v.

WILLIAM P. BARR, Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals.

Submitted: November 19, 2020

Decided: December 8, 2020

Before WILKINSON, HARRIS, and RICHARDSON, Circuit Judges.

Dismissed in part and denied in part by unpublished per curiam opinion.

Jennifer L. Bennett, Chicago, Illinois, for Petitioner. Ethan P. Davis, Acting Assistant Attorney General, Anthony P. Nicastro, Assistant Director, Jonathan Robbins, Senior Litigation Counsel, Office of Immigration Litigation, Civil Division, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Irina Brigadin, a native and citizen of Moldova, petitions for review of an order of the Board of Immigration Appeals (Board) denying her motion to reopen as untimely and numerically barred and declining to reopen sua sponte. We lack jurisdiction to review the Board's decision declining to exercise its sua sponte authority to reopen. *See Lawrence v. Lynch*, 826 F.3d 198, 206 (4th Cir. 2016); *Mosere v. Mukasey*, 552 F.3d 397, 400-01 (4th Cir. 2009). Likewise, we lack jurisdiction to consider Brigadin's arguments concerning equitable tolling where she failed to raise them at the administrative level before the Board. 8 U.S.C. § 1252(d)(1); *Tiscareno-Garcia v. Holder*, 780 F.3d 205, 210 (4th Cir. 2015). Accordingly, we grant in part the Attorney General's motion to dismiss the petition for review.

Next, upon review, we conclude that the Board did not abuse its discretion in denying Brigadin's motion to reopen as untimely and numerically barred. *See Mosere*, 552 F.3d at 400 (reviewing denial of motion to reopen as untimely for abuse of discretion). We therefore deny the petition for review in part for the reasons stated by the Board. *In re Brigadin* (B.I.A. Dec. 20, 2019). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*DISMISSED IN PART,
DENIED IN PART*