

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

November 4, 2011

Lyle W. Cayce
Clerk

No. 11-60083
Summary Calendar

JOSE LUIS ARGUETA-IGLESIAS,

Petitioner

v.

ERIC HOLDER, JR., U.S. ATTORNEY GENERAL,

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A024 810 629

Before JONES, Chief Judge, and PRADO and ELROD, Circuit Judges.

PER CURIAM:*

Jose Luis Argueta-Iglesias, a native and citizen of El Salvador who entered this country in 1982, filed a petition for review on August 30, 2010, seeking to challenge the Board of Immigration Appeals's (BIA) May 20, 2010 dismissal of his appeal from the denial of his application for asylum and withholding of removal, as well as the BIA's August 19, 2010 denial of his motion to reopen.

We lack jurisdiction to review the BIA's May 20, 2010 decision because the instant petition for review is timely filed only as to the denial of his motion to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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reopen. *See* 8 U.S.C. § 1252(b)(1). However, the only issue that Argueta arguably briefs regarding the motion to reopen is whether the BIA erred by failing to consider the argument that his failure to file his asylum application within one year of his entering the United States should be excused. The nature of the argument that Argueta raises in his petition for review is different from what he presented to the BIA in his motion to reopen. Because he did not raise this argument before the BIA, it is unexhausted, and we lack jurisdiction to review this issue. *See Omari v. Holder*, 562 F.3d 314, 318-19 (5th Cir. 2009). Although Argueta requests that we consider his asylum application “nunc pro tunc,” he has not shown any basis for ignoring the jurisdictional and filing requirements and considering his application almost 28 years after it should have been filed.

The petition for review is DISMISSED.