

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

May 10, 2013

Lyle W. Cayce
Clerk

No. 12-60355

Summary Calendar

ROBIN NEAL WHITELEY, also known as Robin Whiteley,

Petitioner

v.

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

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A090 888 003

Before JONES, DENNIS, and HAYNES, Circuit Judges.

PER CURIAM:*

Robin Neal Whiteley, a native and citizen of Mexico, was ordered removed from the United States in October 2001. In October 2011, Whiteley filed a motion to reopen, seeking reconsideration of the removal order. An immigration judge (IJ) denied Whiteley's motion to reopen after finding that it was time barred. The IJ also determined that the immigration court lacked jurisdiction to consider the motion to reopen because it was filed after Whiteley was removed. The Board of Immigration Appeals (BIA) dismissed Whiteley's appeal

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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after finding, inter alia, that the motion was time barred and that Whiteley was not entitled to equitable tolling of the 90-day time limit for filing a motion to reopen. The BIA also determined that Whiteley had departed the U.S. after he was ordered removed and therefore the IJ was without jurisdiction to consider the motion to reopen.

With respect to the BIA's time-bar and equitable tolling determinations, the case law of this circuit does not provide the relief that Whiteley seeks. *See Ramos-Bonilla v. Mukasey*, 543 F.3d 216, 220 (5th Cir. 2008); *Amali v. Gonzales*, 235 F. App'x 212, 213 (5th Cir. 2007); *Torabi v. Gonzales*, 165 F. App'x 326, 329-31 (5th Cir. 2006). Moreover, because Whiteley's motion to reopen was time barred, this court need not address the BIA's application of the departure bar. *See Garcia-Carias v. Holder*, 697 F.3d 257, 261-66 (5th Cir. 2012); *Ovalles v. Holder*, 577 F.3d 288 (5th Cir. 2009); *Ramos-Bonilla*, 543 F.3d at 219-20.

PETITION FOR REVIEW DENIED.