

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

May 12, 2022

Lyle W. Cayce
Clerk

No. 20-60625
Summary Calendar

OSCAR GUADALUPE PUENTE PEREZ,

Petitioner,

versus

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

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A204 699 554

Before SMITH, STEWART, and GRAVES, *Circuit Judges.*

PER CURIAM:*

Oscar Guadalupe Puente Perez, a native and citizen of Mexico, petitions us for a review of a decision of the Board of Immigration Appeals. He argues that the Board should have construed his appeal as a motion to remand based on the ineffective assistance of his first attorney in his

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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immigration proceeding, and that we should grant his petition for review based in part on the ineffective assistance of that same attorney. He also attacks the Texas conviction that was the basis for his removal. As to these claims, the petition is dismissed.

We find no evidence that a motion for reconsideration was submitted and no reason for the Board to have construed the brief that was submitted as a motion to remand. That issue is unexhausted. *See Avelar-Oliva v. Barr*, 954 F.3d 757, 766 (5th Cir. 2020). We cannot consider the ineffective assistance argument apart from the motion-to-remand argument because it was not argued before the Board and so is unexhausted. *Lopez-Dubon v. Holder*, 609 F.3d 642, 644 (5th Cir. 2010). As to these claims, the petition is dismissed.

The collateral attacks on the Texas conviction are not properly before us in this context and so the petition as to those claims is denied. *See Singh v. Holder*, 568 F.3d 525, 528 (5th Cir. 2009).

DENIED in part; DISMISSED in part.