United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
February 27, 2023
Lyle W. Cayce
Clerk

No. 22-60181
Summary Calendar

BRISELDA ABREGO-ESPARZA,

Petitioner,

versus

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

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
Agency No. A205 729 975

Before BARKSDALE, ELROD, and HAYNES, *Circuit Judges*.

PER CURIAM:[*]

Briselda Abrego-Esparza, a native and citizen of Mexico, who entered the United States illegally in 2011 or 2012, petitions for review of the Board of Immigration Appeals' (BIA) dismissing her appeal from an order of an Immigration Judge denying her applications for asylum, withholding of removal, and protection under the Convention Against Torture (CAT).

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

She fails to brief—and therefore waives any challenge she may have had to—the BIA's conclusion her asylum application was time-barred. *E.g.*, *Lopez-Perez v. Garland*, 35 F.4th 953, 958 n.1 (5th Cir. 2022) (concluding petitioner who failed to brief claim waived it). And because it was time-barred, she is ineligible for humanitarian asylum. *See* 8 C.F.R. § 1208.13(b)(1)(iii), (c); Immigration and Nationality Act (INA) § 208(a)(2), 8 U.S.C. § 1158(a)(2).

The BIA's factual findings are reviewed for substantial evidence; its legal conclusions, *de novo*. *E.g.*, *Orellana-Monson v. Holder*, 685 F.3d 511, 517–18 (5th Cir. 2012). Under the substantial-evidence standard, petitioner must show "the evidence is so compelling that no reasonable factfinder could reach a contrary conclusion". *Chen v. Gonzales*, 470 F.3d 1131, 1134 (5th Cir. 2006).

To qualify for withholding of removal, "applicant must demonstrate a clear probability of persecution on the basis of race, religion, nationality, membership in a particular social group, or political opinion". *Id.* at 1138 (citation omitted). Abrego fails to show evidence compels a ruling contrary to that of the BIA on whether she showed past persecution or a well-founded fear of future persecution; therefore, she shows no error in rejection of her withholding claim. *E.g.*, *Gjetani v. Barr*, 968 F.3d 393, 397–99 (5th Cir. 2020) (upholding BIA decision that past persecution had not been shown by alien threated thrice and physically hurt once); *Orellana-Monson*, 685 F.3d at 518 ("The subjective fear of future persecution must be objectively reasonable.").

She likewise fails to show evidence compels a ruling contrary to that of the BIA on whether she showed she more likely than not would be tortured with governmental acquiescence if repatriated; therefore, she shows no error for her CAT claim. *E.g.*, *Tabora Gutierrez v. Garland*, 12 F.4th 496, 502 (5th

Cir. 2021) (explaining applicant must show "it is more likely than not that he . . . would be tortured if removed to the proposed country of removal" with acquiescence of a public official (citation omitted)).

Because these holdings are dispositive of her claims, we need not consider her remaining assertions. *E.g.*, *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.").

DENIED.