

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-11251
Non-Argument Calendar

Agency No. A208-377-969

BRENDA LETICIA SONDAY-CHAVEZ,
ALICIA BRENDA IXMAY-SONDAY,

Petitioners,

versus

U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of a Decision of the
Board of Immigration Appeals

(January 10, 2019)

Before MARCUS, MARTIN, and EDMONDSON, Circuit Judges.

PER CURIAM:

Brenda Sunday-Chavez (“Petitioner”),¹ a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals’s (“BIA”) denial of Petitioner’s motion for reconsideration. No reversible error has been shown; we dismiss the petition in part and deny the petition in part.

In 2015, Petitioner entered the United States without a valid entry document and was later charged as being subject to removal. At the first master-calendar hearing, the Immigration Judge (“IJ”) granted Petitioner a four-month continuance to give Petitioner an opportunity to hire a lawyer.

At the second master-calendar hearing, Petitioner told the IJ she had been unable to find a lawyer. Petitioner -- proceeding pro se -- then conceded removability. After asking Petitioner about her reasons for coming to the United States, the IJ determined that Petitioner was eligible for no form of relief that would allow her to remain in the United States. As a result, the IJ ordered Petitioner’s removal.

¹ Petitioner’s minor child -- also listed as a petitioner in this appeal -- is a rider on Petitioner’s case-in-chief and presents no independent claim.

Petitioner -- through a lawyer -- appealed the IJ's decision. On 7 September 2017, the BIA dismissed the appeal. The BIA agreed with the IJ's determination that Petitioner's testimony indicated no eligibility for relief.

Petitioner then filed a motion for reconsideration of the BIA's decision. The BIA denied Petitioner's motion on 1 March 2018. The BIA noted that Petitioner sought to offer additional evidence in support of the contention that she was eligible for asylum or withholding of removal.² The BIA concluded however that Petitioner had identified no error of fact or law in the BIA's 7 September 2017 decision based on the record before the BIA at that time. Petitioner then filed the instant petition for review on 28 March 2018.

As an initial matter, we consider the scope of our jurisdiction over this appeal. A petition for review must be filed within thirty days of the date of the final order of removal. 8 U.S.C. § 1252(b)(1). This deadline is mandatory and jurisdictional and may not be equitably tolled. Dakane v. U.S. Att'y Gen., 399 F.3d 1269, 1272 n.3 (11th Cir. 2004). Nor is the deadline for filing a petition for review tolled by the filing of a motion for reconsideration. Stone v. I.N.S., 514 U.S. 386, 395 (1995).

Petitioner filed no timely petition for review from the BIA's 7 September 2017 final order of removal. So, we lack jurisdiction to review that order on

² That Petitioner has filed no application for asylum or withholding of removal is undisputed.

appeal. We have jurisdiction to review only the BIA's 1 March 2018 denial of Petitioner's motion for reconsideration.

We review the BIA's denial of a motion for reconsideration under an abuse-of-discretion standard. Assa'ad v. U.S. Att'y Gen., 332 F.3d 1321, 1341 (11th Cir. 2003). A motion for reconsideration must specify errors of law or fact in the BIA's initial decision and must be supported by pertinent authority. 8 U.S.C. § 1229a(c)(6)(C). A motion that "merely reiterat[es] arguments previously presented to the BIA does not constitute 'specifying errors of fact or law' as required for a successful motion to reconsider." Calle v. U.S. Att'y Gen., 504 F.3d 1324, 1329 (11th Cir. 2007) (alteration omitted).

In her appellate brief, Petitioner raises no substantive argument challenging the BIA's denial of her motion for reconsideration. Instead, Petitioner's arguments relate solely to the BIA's 7 September 2017 order. Briefly stated, Petitioner contends that the BIA erred in affirming the IJ's decision because the IJ failed to develop adequately the record and failed to consider properly pertinent evidence of Petitioner's eligibility for asylum or withholding of removal. When -- as in this case -- "an appellant fails to offer argument on an issue, that issue is abandoned." See Sepulveda v. U.S. Att'y Gen., 401 F.3d 1226, 1228 n.2 (11th Cir. 2005).

In any event, the BIA abused no discretion in denying Petitioner's motion for reconsideration. In her motion, Petitioner merely reiterated arguments --

already presented and rejected by the BIA -- that the IJ violated Petitioner's due process rights in concluding that Petitioner had shown no eligibility for relief. Petitioner's restating of her earlier arguments was insufficient to warrant reconsideration. See Calle, 504 F.3d 1329. Nor could Petitioner rely on new evidence to support her motion: a motion for reconsideration must demonstrate error "based on the evidence of record at the time of the initial decision." See 8 C.F.R. § 103.5(a)(3).

PETITION DISMISSED IN PART AND DENIED IN PART.