

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-1527

PHANEL PIERRE,

Petitioner,

versus

ALBERTO R. GONZALES, Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals. (A76-450-944)

Submitted: December 12, 2005

Decided: January 17, 2006

Before NIEMEYER, WILLIAMS, and DUNCAN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Allan Ebert, LAW OFFICES OF ALLAN EBERT, Washington, D.C., for Petitioner. Peter D. Keisler, Assistant Attorney General, Mark C. Walters, Assistant Director, Mary Jane Candaux, Senior Litigation Counsel, U.S. DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Phanel Pierre, a native and citizen of Haiti, petitions for review of an order of the Board of Immigration Appeals ("Board") denying his motion to reconsider its previous order affirming, without opinion, the immigration judge's denial of asylum, withholding of removal, and protection under the Convention Against Torture.

Based on our review of the record, we find that the Board did not abuse its discretion in denying the motion as untimely filed. See 8 C.F.R. § 1003.2(b)(2) (2005). We further find that we lack jurisdiction to review Pierre's claim that the Board should have exercised its sua sponte power to reconsider or reopen his removal proceedings. See Harchenko v. INS, 379 F.3d 405, 410-11 (6th Cir. 2004); Enriquez-Alvarado v. Ashcroft, 371 F.3d 246, 249-50 (5th Cir. 2004); Belay-Gebbru v. INS, 327 F.3d 998, 1000-01 (10th Cir. 2003); Calle-Vujiles v. Ashcroft, 320 F.3d 472, 474-75 (3d Cir. 2003); Ekimian v. INS, 303 F.3d 1153, 1159 (9th Cir. 2002); Luis v. INS, 196 F.3d 36, 40-41 (1st Cir. 1999).

Accordingly, we deny the petition for review. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED