

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

United States Court of Appeals
Fifth Circuit

FILED

May 6, 2019

Lyle W. Cayce
Clerk

No. 18-60797
Summary Calendar

PEDRO VICTORIA-REYES, also known as Pedro Victoria,

Petitioner

v.

WILLIAM P. BARR, U. S. ATTORNEY GENERAL,

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A093 032 071

Before SMITH, WIENER, and WILLETT, Circuit Judges.

PER CURIAM:*

Pedro Victoria-Reyes, a native and citizen of Mexico and a lawful permanent resident of the United States, pleaded guilty to one count of conspiracy to possess with intent to distribute cocaine and was sentenced on January 26, 2015. The Department of Homeland Security (DHS) filed a notice to appear alleging that he was removable under 8 U.S.C. § 1227(a)(2)(A)(iii). Victoria-Reyes, proceeding pro se, admitted the factual allegations, and the IJ

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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found him removeable by clear and convincing evidence. In response to questioning by the IJ, Victoria-Reyes accepted the order of removal and waived his right to appeal. Victoria-Reyes filed a notice of appeal with the BIA. The BIA dismissed the appeal because Victoria-Reyes had waived his appellate rights and had not argued that his decision to waive his appellate rights was not a knowing and intelligent decision his appeal was not properly before the BIA.

On appeal, Victoria-Reyes devotes most of his brief to arguing the merits of his claim. Victoria-Reyes does not address that his failure to present this issue to the BIA and properly exhaust his administrative remedies deprives this court of jurisdiction to address it. *See Omari v. Holder*, 562 F.3d 314, 317 (5th Cir. 2009). Victoria-Reyes's petition for review is DISMISSED FOR LACK OF JURISDICTION. His motion for release on bond pending appeal is DENIED AS MOOT.