UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Nos. 25-1469 & 25-3224

RUBEN MORALES-MEDINA,
Petitioner

v.

ATTORNEY GENERAL UNITED STATES OF AMERICA

On Petitions for Review of the Orders of the BIA
Immigration Judge William H. McDermott, No. A035-839-639

Before: SHWARTZ, MONTGOMERY-REEVES, and RENDELL, *Circuit Judges*
Submitted: Nov. 10, 2026; Filed: Nov. 18, 2026

NONPRECEDENTIAL OPINION*

MONTGOMERY-REEVES, *Circuit Judge*.

Ruben Morales-Medina petitions for review of two orders from the Board of Immigration Appeals (the "BIA"), one summarily dismissing his appeal and another denying reconsideration. We will deny the petitions.

I. BACKGROUND

Morales-Medina is a native and citizen of Mexico. In 1976, at a young age, Morales-Medina was admitted to the United States as a lawful permanent resident.

In August 2023, the Government initiated removal proceedings against Morales-

*This is not an opinion of the full Court and, under 3d Cir. IOP 5.7, is not binding precedent.

Medina.[1] It alleged that he was removable because he committed an "aggravated felony at any time after admission" under 8 U.S.C. § 1227(a)(2)(A)(iii) and a qualifying drug crime under 8 U.S.C. § 1227(a)(2)(B)(i). Specifically, the Government charged that Morales-Medina was convicted of distributing at least fifty grams of methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A). An Immigration Judge ("IJ") sustained those allegations and ruled Morales-Medina removable.

Without the assistance of counsel, Morales-Medina then filed an application for asylum, withholding of removal, and protection under the United Nations Convention Against Torture ("CAT"). Morales-Medina claimed that he feared retribution in Mexico because he had assisted the Government, including by participating in eight controlled drug buys. After a full hearing, the IJ denied the application. The IJ concluded that Morales-Medina was statutorily barred from seeking asylum and withholding of removal and that he had not proven a sufficient likelihood of torture to warrant CAT protection. As a result, the IJ ordered Morales-Medina removed to Mexico.

Morales-Medina, still without the assistance of counsel, then filed a Notice of Appeal with the BIA, noting that an opening brief was forthcoming. He filed an opening brief, but the BIA rejected it because Morales-Medina did not file a certificate of service. Morales-Medina did not refile a corrective brief. So the BIA summarily dismissed his appeal for failing to "meaningfully apprise the Board of the specific reasons underlying [his]

[1] The Government initially filed a Notice to Appear in the Baltimore Immigration Court but successfully moved to change venue to Philadelphia.

challenge to the Immigration Judge's decision." Certified Administrative Record ("AR"), Dkt. No. 25-3224, at 57.[2] Morales-Medina filed a motion for reconsideration, but the BIA rejected that too for failure to attach a certificate of service and failure to pay the filing fee.

Morales-Medina then retained counsel, who refiled a compliant motion for reconsideration. The counseled motion appended a "Supplement to Appeal," which included several arguments raised for the first time. AR 25–29. The BIA denied Morales-Medina's motion, reasoning that "his motion does not articulate any additional legal arguments, point to a relevant change in the law, or identify an argument or aspect of the case that the Board overlooked." AR 4.

Morales-Medina timely petitioned for review of the BIA's summary dismissal and denial of reconsideration.[3]

II. DISCUSSION[4]

Morales-Medina asserts a violation of his due process rights. The Fifth

[2] All references to the record refer to the AR filed in Docket No. 25-3224.

[3] While these appeals were pending, we granted Morales-Medina's motion for a temporary stay of removal. Roughly an hour and a half after our order hit the docket, the Government deported Morales-Medina. We ordered briefing on this apparent violation of our order. The Government did not contest the violation but blamed it on an administrative snafu. Morales-Medina did not brief the subject. Though we remind the Government of its obligations to follow our orders, we need not say more than that considering Morales-Medina's forfeiture.

[4] The BIA had jurisdiction under 8 C.F.R. § 1003.1(b)(3). We generally lack jurisdiction over petitions for review arising from the drug crime Morales-Medina was convicted of, 8 U.S.C. § 1252(a)(2)(C), but we retain jurisdiction over constitutional and legal questions. *Guerrero-Lasprilla v. Barr*, 589 U.S. 221, 227 (2020); 8 U.S.C. § 1252(a)(2)(D).

Amendment's Due Process Clause entitles noncitizens to "a full and fair hearing and a reasonable opportunity to present evidence." *Castro v. Att'y Gen.*, 671 F.3d 356, 365 (3d Cir. 2012). To show a due process violation, Morales-Medina must show "(1) that he was prevented from reasonably presenting his case, and (2) that substantial prejudice resulted." *Freza v. Att'y Gen.*, 49 F.4th 293, 298 (3d Cir. 2022) (citation modified). Morales-Medina shows neither.

His sole contention is that the BIA "ignored the operative appellate brief filed by Petitioner's counsel" in issuing its decision denying reconsideration. Opening Br. 12. But the BIA *did* consider Morales-Medina's counseled brief, citing it twice in the reconsideration decision and rejecting the arguments therein. The counseled brief developed two errors with the BIA's summary dismissal, both of which the BIA rejected. First, the counseled brief claimed that Morales-Medina's earlier pro se brief was timely. But, as the BIA noted, Morales-Medina did not file a properly served brief in time or file a corrective brief in response to the BIA's rejection.[5] Second, the counseled brief asserted that the BIA failed to liberally construe Morales-Medina's pro se submissions. The BIA noted that this argument failed because Morales-Medina had "not identified any error in [its] conclusion that the [Notice of Appeal] did not meaningfully apprise the Board of the underlying reasons

[5] *See* 8 C.F.R. § 1003.2(g)(9)(iii) ("If electronic filing is not being used in a particular case, the party filing with the Board must serve a copy of the filing on the opposing party and include a certificate of service showing service on the opposing party with their filing."); *cf. Mala v. Crown Bay Marina, Inc.*, 704 F.3d 239, 244 (3d Cir. 2013) ("[A] trial judge is under no duty to provide personal instruction on courtroom procedure or to perform any legal chores for the defendant that counsel would normally carry out." (citation modified)).

for his appeal of the [IJ]'s decision." AR 4. And, in any event, no liberal construction was necessary because summary dismissal was proper—even for pro se petitioners—when "[t]he party concerned indicates . . . that he or she will file a brief or statement in support of the appeal and, thereafter, does not file such brief or statement, or reasonably explain his or her failure to do so, within the time set for filing." 8 C.F.R. § 1003.1(d)(2)(i)(E).[6]

Nor can Morales-Medina show prejudice stemming from the BIA's not considering his supplemental arguments in his reconsideration motion. While Morales-Medina hints at a harmful error in his opening brief, he develops no sound argument about prejudice. *See B.C. v. Att'y Gen.*, 12 F.4th 306, 319 n.10 (3d Cir. 2021) (noting that a litigant's constitutional argument "is most likely forfeited" because the "discussion of the issue is so cursory"). Even if he had, he cannot show that the BIA's "infraction had the potential for affecting the outcome." *Freza*, 49 F.4th at 298 (citation modified). That is because arguments raised for the first time in a reconsideration motion cannot amount to "errors of fact or law *in the prior Board decision*." 8 C.F.R. § 1003.2(b)(1) (emphasis added). So even if the BIA had considered Morales-Medina's procedurally improper arguments, it could not have granted the requested relief.

* * * * *

Because Morales-Medina shows no cognizable violation of due process, we will

[6] *See also Argueta-Orellana v. Att'y Gen.*, 35 F.4th 144, 147 (3d Cir. 2022) ("There are no exceptional or unusual meanings in [8 C.F.R. § 1003.1(d)(2)(i)(E)], only discretion to summarily dismiss when a brief is promised but, without explanation, not provided.").

DENY the petitions.[7]

[7] Because we have addressed the petitions for review, the Government's motion for summary affirmance is denied as moot. In addition, because we will deny Morales-Medina relief on the merits, we will also deny his motion to return to the United States.