

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 99-2941

Candida Rosa Euceda,

Petitioner,

v.

Immigration and Naturalization
Service; U.S. Department of Justice,

Respondents.

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Petition for Review of an
Order of the Immigration
and Naturalization Service.
[UNPUBLISHED]

Submitted: July 5, 2000
Filed: July 11, 2000

Before LOKEN, FAGG, and HANSEN, Circuit Judges.

PER CURIAM.

Candida Rosa Euceda, a Honduran citizen, petitions for review of a final order of the Board of Immigration Appeals (BIA) dismissing as untimely her appeal from the Immigration Judge's (IJ) denial of her applications for asylum and withholding of deportation. For reversal she addresses only the merits of the IJ's decision. For the reasons discussed below, we deny the petition for review.

The record reveals that the IJ issued an oral decision on April 3, 1997, after a hearing, and that on May 8 the BIA received Euceda's Form EOIR-26 Notice of

Appeal, three days after the filing deadline had passed. We conclude the BIA properly dismissed the appeal as untimely. See Atiqullah v. INS, 39 F.3d 896, 898 (8th Cir. 1994) (per curiam) (absent unique circumstances, time limit for filing notice of appeal with BIA is mandatory and confers on BIA jurisdiction to hear appeal); 8 C.F.R. § 3.38(b), (c) (2000) (notice of appeal from IJ's decision (Form EOIR-26) shall be filed directly with BIA within 30 calendar days after stating of IJ's oral decision; if final date for filing falls on Saturday, Sunday, or legal holiday, appeal time extends to next business day; date of filing is date BIA receives notice). We may not review the merits of Euceda's claims because they were not presented to the BIA. See Margalli-Olvera v. INS, 43 F.3d 345, 350 (8th Cir. 1994).

Accordingly, we deny the petition for review.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.