

**UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

**SUMMARY ORDER**

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 31<sup>st</sup> day of July, two thousand twenty-five.

**PRESENT:**

PIERRE N. LEVAL,  
MICHAEL H. PARK,  
MYRNA PÉREZ,  
*Circuit Judges.*

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ALEXIS FERNANDO RAMOS  
CARRILLO, T.A.R.L.,  
*Petitioners,*

v.

PAMELA BONDI, UNITED STATES  
ATTORNEY GENERAL,  
*Respondent.\**

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23-6999  
NAC

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\* The Clerk of Court is respectfully directed to amend the official caption as set forth above to abbreviate the name of Petitioner Ramos Carrillo's minor child.

1 **FOR PETITIONERS:**

Michael Borja, Esq., Borja Law Firm, P.C.,  
Jackson Heights, NY.

4 **FOR RESPONDENT:**

Brian M. Boynton, Principal Deputy Assistant  
Attorney General; Holly M. Smith, Assistant  
Director, Nehal H. Kamani, Trial Attorney,  
Office of Immigration Litigation, United  
States Department of Justice, Washington,  
DC.

10 UPON DUE CONSIDERATION of this petition for review of a Board of  
11 Immigration Appeals (“BIA”) decision, it is hereby ORDERED, ADJUDGED, AND  
12 DECREED that the petition for review is DENIED.

13 Petitioners Alexis Fernando Ramos Carrillo and his minor child, natives and  
14 citizens of Ecuador, seek review of a decision of the BIA summarily dismissing as  
15 untimely their appeal of a decision of an immigration judge (“IJ”). *In re Alexis*  
16 *Fernando Ramos Carrillo, et al.*, Nos. A220 191 196/195 (B.I.A. Aug. 3, 2023). We  
17 assume the parties’ familiarity with the underlying facts and procedural history.

18 Under the circumstances, we have reviewed only the BIA’s decision. *See*  
19 *Yan Chen v. Gonzales*, 417 F.3d 268, 271 (2d Cir. 2005). We review the BIA’s  
20 dismissal of an appeal as untimely for abuse of discretion, *see Khan v. U.S. Dep’t of*  
21 *Just.*, 494 F.3d 255, 259–60 (2d Cir. 2007), but “[w]e review its legal conclusions de  
22 novo,” *Attipoe v. Barr*, 945 F.3d 76, 80 (2d Cir. 2019).

1       The notice of appeal from an IJ's decision "shall be filed directly with the  
2   [BIA] within 30 calendar days after the stating of an [IJ]'s oral decision or the  
3   mailing or electronic notification of an [IJ]'s written decision." 8 C.F.R.  
4   § 1003.38(b); *see also Attipoe*, 945 F.3d at 79. Petitioners' June 2023 appeal to the  
5   BIA was thus untimely, as it was filed more than 30 days after the IJ's October 2022  
6   decision. The BIA dismissed their appeal on that basis, finding that Petitioners'  
7   inability to pay the filing fee did not warrant an extension because a fee waiver  
8   was available. Cert. Admin. R. at 3; *see* 8 C.F.R. § 1003.8(a)(3). And in their brief  
9   here, Petitioners do not challenge the BIA's summary dismissal of the appeal as  
10   untimely. Accordingly, we deny the petition because they have abandoned the  
11   only issue properly before us. *See Debique v. Garland*, 58 F.4th 676, 684 (2d Cir.  
12   2023) ("We consider abandoned any claims not adequately presented in an  
13   appellant's brief, and an appellant's failure to make legal or factual arguments  
14   constitutes abandonment." (quotation marks omitted)).

15       As the Government contends, Petitioners' arguments about the merits of the  
16   IJ's denial of asylum and related relief are unexhausted because no timely appeal  
17   was taken to the BIA. *See Poole v. Mukasey*, 522 F.3d 259, 264 (2d Cir. 2008)  
18   (concluding that "a late appeal to the BIA leaves a petitioner's claim

1 unexhausted”), *abrogated on other grounds by Santos-Zacaria v. Garland*, 598 U.S. 411,  
2 413 (2023) (holding that exhaustion requirement in 8 U.S.C. § 1252(d)(1) is not  
3 jurisdictional); *see also Ud Din v. Garland*, 72 F.4th 411, 419–20 & n.2 (2d Cir. 2023)  
4 (reiterating that issue exhaustion is mandatory where the Government raises it).

5 For the foregoing reasons, the petition for review is DENIED.

6 FOR THE COURT:  
7 Catherine O’Hagan Wolfe,  
8 Clerk of Court