

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-2213

GUADALUPE DIAZ-VELASQUEZ,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals.

Submitted: October 29, 2015

Decided: November 17, 2015

Before SHEDD, FLOYD, and THACKER, Circuit Judges.

Petition dismissed in part; granted and remanded in part by unpublished per curiam opinion.

Anser Ahmad, AHMAD and ASSOCIATES, McLean, Virginia, for Petitioner. Benjamin C. Mizer, Principal Deputy Assistant Attorney General, Terri J. Scadron, Assistant Director, Hillel R. Smith, Office of Immigration Litigation, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Guadalupe Diaz-Velasquez, a native and citizen of Guatemala, petitions for review of an order of the Board of Immigration Appeals (Board) dismissing his appeal from the immigration judge's denial of his applications for asylum, withholding of removal, and protection under the Convention Against Torture.

On appeal, Diaz-Velasquez challenges the agency's determination that he failed to establish changed or extraordinary circumstances to excuse the untimely filing of his asylum application. We lack jurisdiction to review this determination pursuant to 8 U.S.C. § 1158(a)(3) (2012), and find that Diaz-Velasquez has not raised any claims that would fall under the exception set forth in 8 U.S.C. § 1252(a)(2)(D) (2012). See Gomis v. Holder, 571 F.3d 353, 358-59 (4th Cir. 2009). Given this jurisdictional bar, we cannot review the underlying merits of his asylum claims. Accordingly, we dismiss this portion of the petition for review.

Diaz-Velasquez also contends that the agency erred in denying his request for withholding of removal.* In analyzing

* Diaz-Velasquez failed to challenge the agency's denial of his request for protection under the Convention Against Torture. He has therefore waived appellate review of this claim. See Ngarurih v. Ashcroft, 371 F.3d 182, 189 n.7 (4th Cir. 2004).

his claims, the agency did not have the benefit of our recent decision in Hernandez-Avalos v. Lynch, 784 F.3d 944 (4th Cir. 2015), which addressed gang threats made to a family member. We therefore grant the petition for review in part and remand Diaz-Velasquez's claim for withholding of removal for further proceedings in light of Hernandez-Avalos. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

PETITION DISMISSED IN PART;
GRANTED AND REMANDED IN PART