

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-1295

ERDOGAN GULSOY,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

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

Submitted: September 4, 2015

Decided: September 24, 2015

Before DUNCAN, AGEE, and WYNN, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Japheth N. Matem, MATEMU LAW OFFICE, P.C., Raleigh, North Carolina, for Petitioner. Benjamin C. Mizer, Principal Deputy Assistant Attorney General, Anthony W. Norwood, Senior Litigation Counsel, 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Unpublished opinions are not binding precedent in this circuit.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:

Erdogan Gulsoy, a native and citizen of Turkey, petitions for review of an order of the Board of Immigration Appeals dismissing his appeal from the immigration judge's (IJ) order denying his motion for a continuance and finding him removable. We deny the petition for review.

An IJ "may grant a motion for continuance for good cause shown." 8 C.F.R. § 1003.29 (2015). We review the denial of a motion for a continuance for abuse of discretion. Lendo v. Gonzales, 493 F.3d 439, 441 (4th Cir. 2007). We "must uphold the IJ's denial of a continuance unless it was made without a rational explanation, it inexplicably departed from established policies, or it rested on an impermissible basis, e.g., invidious discrimination against a particular race or group." Id. (internal quotation marks omitted).

We conclude that the IJ properly considered the denial of a prior I-130 visa petition as he considered the viability of the pending I-130 visa petition. In re Hashmi, 24 I. & N. Dec. 785, 792 (B.I.A. 2009) (IJ may consider whether underlying visa petition is prima facie approvable). "These prior filings or other evidence of potential fraud or dilatory tactics may impact the viability of the visa petition underlying the motion." Id.

Accordingly, we conclude that there was no abuse of discretion and deny the petition for review. 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 DENIED