

September 14, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-60761
Summary Calendar

TAHIR NISAR SHAIKH

Petitioner

v.

ALBERTO R GONZALES, US ATTORNEY GENERAL

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A79 011 592

Before KING, HIGGINBOTHAM and GARZA, Circuit Judges.

PER CURIAM:*

Tahir Nisar Shaikh, a native and citizen of Pakistan, petitions for review of an order from the Board of Immigration Appeals (BIA) affirming the decision of the immigration judge (IJ) denying his application for cancellation of removal and his request for a continuance based on his pending application for labor certification. Shaikh contends that the denial of the continuance was inconsistent with 8 U.S.C. § 1255(i) and deprived him of due process of law.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

We assume without deciding that Shaikh had pending a timely application for labor certification. Even a timely application for labor certification did not constitute good cause for a continuance because the grant of certification would have been only the first step in a long, discretionary process. See Ahmed v. Gonzales, 447 F.3d 433, 438-39 (5th Cir. 2006). Accordingly, the denial of Shaikh's motion for a continuance was not an abuse of discretion.

Shaikh also argues that the denial of his motion for a continuance violated his due process rights because he was prevented from pursuing an adjustment of status under § 1255(i). This contention fails because "discretionary relief from removal, including an application for an adjustment of status, is not a liberty or property right that requires due process protection." Ahmed, 447 F.3d at 440.

Shaikh's petition for review is DENIED.