

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT **United States Court of Appeals
Fifth Circuit**

FILED

September 6, 2007

Charles R. Fulbruge III
Clerk

No. 06-60649
Summary Calendar

RAFAEL LOYOLA-GOMEZ,

Petitioner,

versus

ALBERTO R GONZALES, U S ATTORNEY GENERAL,

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A77 405 242

Before KING, STEWART, and OWEN, Circuit Judges.

PER CURIAM:*

Rafael Loyola-Gomez (Loyola) petitions for review of an order of the Board of Immigration Appeals (BIA) affirming the denial of an adjustment of status. Loyola argues that the BIA violated his procedural due process rights when it refused to exercise its discretion to accept his out-of-time appellate brief. The brief was submitted several days late and was accompanied by an untimely request for an extension of the filing time.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The relief sought by Loyola (namely, an adjustment of status to that of a legal permanent resident) is discretionary in nature and is not afforded due process protection. See *Ahmed v. Gonzales*, 447 F.3d 433, 440 (5th 2006). To the extent that Loyola argues that the BIA erred in affirming the denial of an adjustment of status, we lack jurisdiction to review that decision. See 8 U.S.C. § 1252(a)(2)(B)(i); *Wilmore v. Gonzales*, 455 F.3d 524, 528-29 (5th Cir. 2006) .

PETITION FOR REVIEW DENIED.