

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

April 17, 2009

Charles R. Fulbruge III
Clerk

No. 08-60590
Summary Calendar

AHMED ZAFAR

Petitioner

v.

ERIC H HOLDER, JR, U S ATTORNEY GENERAL

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A72 766 179

Before JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:*

Ahmed Zafar petitions this court for review of the order issued by the Board of Immigration Appeals that affirmed the Immigration Judge's denial of his eighth request for a continuance.

Zafar sought a continuance of his removal proceedings pending the adjudication of his wife's fourth I-130 petition, which was filed in order for Zafar to seek an adjustment of status. We have jurisdiction to review the denial of a

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

continuance in an immigration proceeding. *Ahmed v. Gonzales*, 447 F.3d 433, 437 (5th Cir. 2006). “When, as here, the BIA affirms the immigration judge and relies on the reasons set forth in the immigration judge’s decision, this court reviews the decision of the immigration judge as well as the decision of the BIA.” *Id.* The grant of a motion to continue lies within the sound discretion of the Immigration Judge, who may grant the motion for good cause shown. *Masih v. Mukasey*, 536 F.3d 370, 373 (5th Cir. 2008); see 8 C.F.R. § 1003.29. Zafar failed to show good cause. The three previous I-130 petitions filed by Zafar’s wife were denied. Zafar has made no showing that the pending fourth I-130 petition would be adjudicated any differently than the prior three petitions. Zafar’s marriage is not entitled to a presumption of legitimacy because the marriage occurred after Zafar was placed in exclusion proceedings. See *Matter of Arthur*, 20 I&N Dec. 475, 479 (BIA 1992). Further, the case has been continued numerous times for over two years. Thus, the BIA did not abuse its discretion by affirming the Immigration Judge’s denial of the motion for continuance.

The petition for review is DENIED.