

United States Court of Appeals for the Fifth Circuit

No. 21-60912
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 9, 2023

Lyle W. Cayce
Clerk

GERARDO URBANO,

Petitioner,

versus

MERRICK GARLAND, *U.S. Attorney General,*

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
Agency No. A044 550 878

Before WIENER, ELROD, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

Gerardo Urbano, a native and citizen of Mexico, petitions this court for review of an order of the Board of Immigration Appeals (BIA) denying his motion to reopen his proceedings. He shows no error in connection with the BIA's conclusion that he was ineligible for equitable tolling because he did not diligently pursue his rights. *See Lugo-Resendez v. Lynch*, 831 F.3d 337, 344

* This opinion is not designated for publication, *See* 5TH CIR. R. 47.5.

No. 21-60912

(5th Cir. 2016). Because diligence is a necessary component of an equitable tolling claim, we need not consider his remaining arguments concerning this claim. *See id.*; *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976). Concomitantly, he has shown no abuse of discretion in connection with the denial of his motion. *See Gonzalez-Cantu v. Sessions*, 866 F.3d 302, 305 (5th Cir. 2017).

We lack jurisdiction to consider his argument that the BIA erred by concluding that he failed to brief, and thus waived, any argument he may have had concerning the Immigration Judge's conclusion that he was ineligible for a waiver of inadmissibility because it was not exhausted. *See Martinez-Guevara v. Garland*, 27 F.4th 353, 360 (5th Cir. 2022); 8 U.S.C. § 1252(d)(1). The petition for review is DENIED in part and DISMISSED in part for want of jurisdiction.