United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
October 30, 2026
Thomas B. Plunkett, III
Clerk

No. 26-60208
Summary Calendar

KEERAN PERSAUD,

Petitioner,

versus

TODD WALLACE BLANCHE, *U.S. Attorney General*,

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
Agency No. A097 538 476

Before HIGGINBOTHAM, SMITH, and HO, *Circuit Judges*.

PER CURIAM:[*]

Keeran Persaud, a native and citizen of Guyana, petitions for review of a decision by the Board of Immigration Appeals (BIA) summarily dismissing his appeal from an immigration judge's (IJ) denial of his motion to reopen as untimely and affirming the IJ's denial of his motion to reconsider.

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

We review the denial of both a motion to reopen and a motion to reconsider "under a highly deferential abuse-of-discretion standard." *Lowe v. Sessions*, 872 F.3d 713, 715 (5th Cir. 2017) (internal quotation marks and citation omitted). We also review a summary dismissal by the BIA for abuse of discretion. *Rioja v. Ashcroft*, 317 F.3d 514, 515 (5th Cir. 2003).

Persaud's challenges to the BIA's summary dismissal of his appeal from the IJ's denial of his motion to reopen are unavailing. His appeal was untimely, and because he did not raise an equitable tolling argument, the BIA did not err in deeming the appeal untimely and not conducting an equitable tolling analysis. *See* 8 C.F.R. § 1003.38(b) (2025); *Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005); *Boch-Saban v. Garland*, 30 F.4th 411, 413 (5th Cir. 2022). We will not consider his current argument that he was entitled to equitable tolling, as the Government has raised exhaustion. *See Carreon v. Garland*, 71 F.4th 247, 257 (5th Cir. 2023). Further, Persaud's claim that his due process rights were violated fails because aliens have no due process rights with respect to discretionary relief, *Ramos-Portillo v. Barr*, 919 F.3d 955, 963 (5th Cir. 2019), and reopening is discretionary, *Santos-Zacaria v. Garland*, 598 U.S. 411, 425 (2023). The BIA did not abuse its discretion by summarily dismissing the appeal. *See Rioja*, 317 F.3d at 515.

Turning to Persaud's challenges to the BIA's affirmance of the IJ's denial of his motion to reconsider, his argument that the departure bar in 8 C.F.R. § 1003.23(b)(1) did not apply to his request for sua sponte reopening is unavailing. *See Lugo-Resendez v. Lynch*, 831 F.3d 337, 341-42 (5th Cir. 2016). And, contrary to his assertion, the Supreme Court's decision in *Kisor v. Wilkie*, 588 U.S. 558 (2019), does not displace the application of circuit precedent here. *See Moore v. Tangipahoa Par. Sch. Bd.*, 921 F.3d 545, 547 (5th Cir. 2019); *Mercado v. Lynch*, 823 F.3d 276, 279 (5th Cir. 2016). Additionally, the agency did not err by failing to consider out-of-circuit precedent, *see Arce-Vences v. Mukasey*, 512 F.3d 167, 172 (5th Cir. 2007); *Matter of U. Singh*, 25 I.

& N. Dec. 670, 672 (BIA 2012), and his assertion that the agency did not properly address his *Kisor* argument is belied by the record, *see L.N. v. Garland*, 109 F.4th 389, 396 (5th Cir. 2024).

Next, Persaud's challenges to the validity of his removal order, which was entered in accordance with a stipulated request for a removal order and a waiver of hearing, are without merit. Insofar as Persaud argues that he did not enter into the stipulation knowingly, voluntarily, or intelligently, the record does not support this contention. His claim that the regulations required the IJ to conduct an "independent judicial inquiry" into the validity of the stipulation in the form of a hearing is unsupported, and he does not identify any authority from this court requiring such an inquiry. *See* 8 C.F.R. § 1003.25(b). Additionally, contrary to his assertions, he was not removed in absentia and his defective notice to appear did not render his removal order invalid on that basis, *see* 8 U.S.C. § 1229a(b)(5)(A), and the BIA did not err in determining that his case was distinguishable from *Campos-Chaves v. Garland*, 602 U.S. 447 (2024).

As for Persaud's due process claims based on the validity of his removal order, given that the above claims are without merit, the premise of his due process claims necessarily fails. *See Arteaga-Ramirez v. Barr*, 954 F.3d 812, 813 (5th Cir. 2020). Further, he has no due process rights with respect to the discretionary remedy of reconsideration. *See Santos-Zacaria*, 598 U.S. at 425; *Ramos-Portillo*, 919 F.3d at 963. The BIA thus did not abuse its discretion in affirming the IJ's denial of his motion to reconsider. *See Lowe*, 872 F.3d at 715.

The petition for review is DENIED.