

United States Court of Appeals
For the Eighth Circuit

No. 20-3621

Cristobal Martinez-Cruz

Petitioner

v.

Merrick B. Garland, Attorney General of the United States

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals

Submitted: October 1, 2021

Filed: November 30, 2021

[Unpublished]

Before LOKEN, BENTON, and KOBES, Circuit Judges.

PER CURIAM.

Cristobal Martinez-Cruz, a native and citizen of Mexico, petitions for review of an order of the Board of Immigration Appeals (BIA) dismissing his appeal of the immigration judge's (IJ) decision denying him withholding of removal and protection under the Convention Against Torture (CAT). He does not challenge the denial of

CAT relief and has therefore waived review of that claim. See Chay-Velasquez v. Ashcroft, 367 F.3d 751, 756 (8th Cir. 2004).

After careful review of the record, we deny the petition for review. Martinez-Cruz failed to establish a “clear abuse” of the IJ’s discretionary decision not to grant Martinez-Cruz’s last-minute request for a continuance of his individual hearing. See Choge v. Lynch, 806 F.3d 438, 441 (8th Cir. 2015) (standard of review); 8 C.F.R. § 1003.29 (2020). The immigration judge considered relevant factors and rationally explained why Martinez-Cruz failed to demonstrate good cause, including his lack of due diligence in the nearly five years leading up to the individual hearing. Even if preserved, Martinez-Cruz’s contention that denial of a continuance violated his due process rights is without merit. See Al Khouri v. Ashcroft, 362 F.3d 461, 464, 466 (8th Cir. 2004). We further conclude that substantial evidence supports the agency’s conclusion that Martinez-Cruz failed to established eligibility for withholding of removal. See, e.g., Cano v. Barr, 956 F.3d 1034, 1038-40 (8th Cir. 2020).

Accordingly, we deny the petition for review.
