

United States Court of Appeals
For the Eighth Circuit

No. 21-3495

Lucio Arturo Guzman-Mendez

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: August 10, 2022

Filed: August 15, 2022

[Unpublished]

Before COLLOTON, GRUENDER, and BENTON, Circuit Judges.

PER CURIAM.

Mexican citizen Lucio Arturo Guzman-Mendez petitions for review of a 2021 Board of Immigration Appeals (BIA) order, which affirmed an immigration judge's decision denying his motion to reopen or reconsider the denial of cancellation of

removal and vacated the immigration judge's alternative grant of voluntary departure.¹

The BIA did not abuse its discretion by denying Guzman-Mendez's motion to reopen. *See Baker White v. Wilkinson*, 990 F.3d 600, 605 (8th Cir. 2021) (explaining the standard of review). The BIA rationally concluded the evidence presented was neither new nor material because it was cumulative or a continuation of the hardship evidence he had already presented and would not likely change the result in his case-- i.e., the denial of cancellation of removal based on his failure to show an "exceptional and extremely unusual hardship." *See* 8 U.S.C. §§ 1229a(c)(7)(B), 1229b(b)(1)(D); *Urrutia Robles v. Garland*, 23 F.4th 1061, 1065 (8th Cir. 2022); *Campos Julio v. Barr*, 953 F.3d 550, 553 (8th Cir. 2020); *Urrutia Robles v. Barr*, 940 F.3d 420, 423 (8th Cir. 2019); 8 C.F.R. § 1003.2(c)(1) (2021). Any alleged inconsistency with unpublished agency decisions was insufficient to show, in this case, that the BIA departed from its established policies. *See Bakor v. Barr*, 958 F.3d 732, 735 (8th Cir. 2020); *Perez-Rodriguez v. Barr*, 951 F.3d 972, 976-77 (8th Cir. 2020). Finally, to the extent that Guzman-Mendez argues the BIA incorrectly concluded the new evidence was unlikely to change the result, his arguments are unreviewable. *See Caballero-Martinez v. Barr*, 920 F.3d 543, 548 & n.1 (8th Cir. 2019); *see also Garcia-Ortiz v. Garland*, 20 F.4th 1212, 1215-17 (8th Cir. 2021); *Nunez-Portillo v. Holder*, 763 F.3d 974, 977 (8th Cir. 2014); *Solis v. Holder*, 647 F.3d 831, 833 (8th Cir. 2011).

The petition for review is denied. *See* 8th Cir. R. 47B.

¹Guzman-Mendez does not challenge the denial of reconsideration or voluntary departure and has therefore waived review of those issues. *See Chay-Velasquez v. Ashcroft*, 367 F.3d 751, 756 (8th Cir. 2004).