

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-1486

OSCAR OMAR VASQUEZ,

Petitioner,

v.

ERIC H. HOLDER, JR., Attorney General,

Respondent.

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

Submitted: July 10, 2009

Decided: July 20, 2009

Before MICHAEL, KING, and SHEDD, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Aroon R. Padharia, LAW OFFICE OF AROON R. PADHARIA, Washington, D.C., for Petitioner. Tony West, Assistant Attorney General, William C. Peachey, Assistant Director, Eric W. Marsteller, Office of Immigration Litigation, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Oscar Omar Vasquez, a lawful permanent resident and a native and citizen of El Salvador, petitions for review of an order of the Board of Immigration Appeals ("Board") denying his motion to reopen and his motion to reissue the Board's order sustaining the Government's appeal. We deny the petition for review.

This court reviews the denial of a motion to reopen for abuse of discretion. 8 C.F.R. § 1003.2(a) (2009); INS v. Doherty, 502 U.S. 314, 323-24 (1992); Mosere v. Mukasey, 552 F.3d 397, 400 (4th Cir. 2009). A denial of a motion to reopen must be reviewed with extreme deference, since immigration statutes do not contemplate reopening and the applicable regulations disfavor such motions. M.A. v. INS, 899 F.2d 304, 308 (4th Cir. 1990) (en banc). The motion "shall state the new facts that will be proven at a hearing to be held if the motion is granted and shall be supported by affidavits or other evidentiary material." 8 C.F.R. § 1003.2(c)(1) (2009). It "shall not be granted unless it appears to the Board that evidence sought to be offered is material and was not available and could not have been discovered or presented at the former hearing." Id.

We find the Board had authority to enter an order of removal after it overturned the immigration judge's order

granting cancellation of removal. See Cruz-Camey v. Gonzales, 504 F.3d 28, 29-30 (1st Cir. 2007); Lazo v. Gonzales, 462 F.3d 53, 54-55 (2d Cir. 2006). We also find Vasquez failed to show his due process rights were violated or that he was prejudiced by the alleged error in the proceedings. See Anim v. Mukasey, 535 F.3d 243, 256 (4th Cir. 2008); Dekoladenu v. Gonzales, 459 F.3d 500, 508 (4th Cir. 2006) ("No property or liberty interest can exist when the relief sought is discretionary."). Finally, we find the Board did not abuse its discretion in denying the motion to reopen.

Accordingly, we deny the petition for review. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED