

United States Court of Appeals

Fifth Circuit

FILED

August 10, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-60331
Summary Calendar

SYED MUEED ALAM,

Petitioner,

versus

ALBERTO R. GONZALES, U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A79-005-389

Before JONES, Chief Judge, and SMITH and GARZA, Circuit Judges.

PER CURIAM:*

Syed Mueed Alam appeals the affirmance by the Board of Immigration Appeals (BIA) of the Immigration Judge's (IJ) denial of a motion for continuance of the hearing on Alam's application for asylum, withholding of removal, and relief under the Convention Against Torture. He contends that his procedural due process rights to a full and fair hearing were violated because Attorney Sharif was unfamiliar with the facts of the case and, therefore,

*Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

unable to develop Alam's testimony and because Alam himself was ill on the date of the hearing.

This court reviews the BIA's affirmance of an IJ's denial of a continuance for abuse of discretion. Witter v. INS, 113 F.3d 549, 555-56 (5th Cir. 1997). An IJ may grant a continuance upon a showing of good cause. Id.

Alam's motion for a continuance based on either Attorney Zakaria's illness or Alam's "condition" lacked good cause. Alam had already been granted three continuances. See Bright v. INS, 837 F.2d 1330, 1332 (5th Cir. 1988). Moreover, Alam's attorney of record, Ramji, was present at the hearing. See Patel v. INS, 803 F.2d 804, 806-07 (5th Cir. 1986). Thus, the IJ did not err when it denied the continuance, and Alam's claim, framed as a due process violation, fails. See Ali v. Gonzales, 440 F.3d 678, 680-81 (5th Cir. 2006).

Accordingly, Alam's petition for review is DENIED.