

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

April 18, 2014

Lyle W. Cayce
Clerk

No. 13-60243

Summary Calendar

MUHAMMAD FARHAN HANIF KHAN,

Petitioner

v.

ERIC H. HOLDER, JR., U.S. ATTORNEY GENERAL,

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A076 833 798

Before HIGGINBOTHAM, DENNIS, and GRAVES, Circuit Judges.

PER CURIAM:*

Muhammad Farhan Hanif Khan has petitioned for review of the decision of the Board of Immigration Appeals (BIA) refusing to reopen his immigration proceedings sua sponte so that he could pursue adjustment of status based on an approved Immigrant Petition for Alien Worker filed by his prospective employer. Finding that the case did not present exceptional circumstances,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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the BIA denied the motion as untimely. The respondent has moved to dismiss the petition for want of jurisdiction.

Because the authority to reopen an immigration proceeding sua sponte is entirely discretionary, this court lacks jurisdiction to review a challenge to the BIA's refusal to do so. *Ramos-Bonilla v. Mukasey*, 543 F.3d 216, 219-20 (5th Cir. 2008) (citing *Enriquez-Alvarado v. Ashcroft*, 371 F.3d 246, 248 (5th Cir. 2004)). *Kucana v. Holder*, 558 U.S. 233, 253 (2010), cited by Khan, does not hold otherwise. See 558 U.S. at 251 n.18; see also *Ibarra-Gonzalez v. Holder*, 2013 WL 5651318, 1 (5th Cir. Oct. 17, 2013) (unpublished).

The respondent's motion to dismiss is GRANTED, and Khan's petition for review is DISMISSED. See *Ramos-Bonilla*, 543 F.3d at 220.