

United States Court of Appeals
for the Fifth Circuit

No. 22-60042
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
December 15, 2022

Lyle W. Cayce
Clerk

MATTHEW SARPONG,

Petitioner,

versus

MERRICK GARLAND, *U.S. Attorney General,*

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
Agency No. A213 546 270

Before STEWART, DUNCAN, and WILSON, *Circuit Judges.*

PER CURIAM:*

Matthew Sarpong, a native and citizen of Ghana, petitions this court for review of a decision of the Board of Immigration Appeals denying his motion to reopen the proceedings. Motions to reopen are “disfavored” and are reviewed under “a highly deferential abuse of discretion standard.” *Gonzalez-Cantu v. Sessions*, 866 F.3d 302, 304-05 (5th Cir. 2017) (internal

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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quotation marks and citation omitted). Review of the record supports the BIA's conclusion that the statement from Sarpong's partner did not show Sarpong's prima facie eligibility for asylum, withholding of removal, or relief under the Convention Against Torture. *See Abushagif v. Garland*, 15 F.4th 323, 330 (5th Cir. 2021); *see also Cantarero-Lagos v. Holder*, 924 F.3d 145, 149-50 (5th Cir. 2019); *Efe v. Ashcroft*, 293 F.3d 899, 907 (5th Cir. 2002). Consequently, the BIA's decision was not "capricious, racially invidious, utterly without foundation in the evidence, or otherwise so irrational that it is arbitrary rather than the result of any perceptible rational approach," and the abuse of discretion standard has not been met. *See Zhao v. Gonzales*, 404 F.3d 295, 304 (5th Cir. 2005) (citation omitted).

Insofar as the parties seek remand based on the BIA's handling of the motion to reopen, these arguments are unavailing because they do not present an issue that the BIA has not already had a chance to consider. *See INS v. Orlando Ventura*, 537 U.S. 12, 16 (2002); *Sime v. Holder*, 742 F.3d 603, 612 (5th Cir. 2014). Insofar as remand is sought because Sarpong wishes to present new evidence concerning a material change in Ghanaian conditions, we will not permit him to evade the number bar on motions to reopen by way of a remand. *See Dije v. Garland*, 39 F.4th 280, 283, 287-88 (5th Cir. 2022). The petition for review and the motion for remand are both DENIED.