

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 23, 2023

Lyle W. Cayce
Clerk

No. 23-60050
Summary Calendar

JANKELL SAMAE L CARCAMO-CAMPOS,

Petitioner,

versus

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

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
Agency No. A209 239 587

Before KING, HAYNES, and GRAVES, *Circuit Judges.*

PER CURIAM:*

Jankell Samael Carcamo-Campos, a native and citizen of Honduras, petitions for review of a decision of the Board of Immigration Appeals (BIA) denying his motion to reopen, which was based on a claim of ineffective assistance of counsel (IAC). We review the BIA’s denial of such motions “under a highly deferential abuse-of-discretion standard.” *Ovalles v. Rosen*,

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

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984 F.3d 1120, 1123 (5th Cir. 2021) (internal quotation marks and citation omitted). Under this standard, this court will affirm unless the agency's decision is "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." *Nguhlefeh Njilefac v. Garland*, 992 F.3d 362, 365 (5th Cir. 2021)(internal quotation marks and citation omitted).

A motion to reopen may be denied if the movant fails to make a prima facie showing of eligibility for the relief sought. *Parada-Orellana v. Garland*, 21 F.4th 887, 893 (5th Cir. 2022) (citing *INS v. Abudu*, 485 U.S. 94, 104-05 (1988)). To raise a colorable claim of ineffective assistance of counsel, one must show that counsel's substandard performance prejudiced him. *See Diaz v. Sessions*, 894 F.3d 222, 228 (5th Cir. 2018). One establishes prejudice by showing a reasonable probability that the result of his proceedings would have been different but for counsel's flawed performance. *Id.*

Carcamo-Campos shows no error in connection with the BIA's conclusion that he had not shown prejudice because he had not shown that he met the visa requirements for 8 U.S.C. § 1255(a) eligibility. *See* § 1255(a),(e); *see also Bolvito v. Mukasey*, 527 F.3d 428, 431 (5th Cir. 2008); 8 C.F.R. § 1245.1(c)(8)(v). Because the visa component is a necessary showing for one who seeks adjustment, there is no need to consider his argument that he was paroled. *See* § 1255(a); *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam). His failure to show prima facie eligibility for a § 1255(a) adjustment results in concomitant failures to make a prima facie showing that counsel rendered ineffective assistance and that the BIA abused its discretion by denying his motion to reopen. *See Nguhlefeh Njilefac*, 992 F.3d at 365. Consequently, his petition for review is DENIED.