

NOV 25 2015

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LUIS ALBERTO GUILLEN-COREA,

Petitioner,

v.

LORETTA E. LYNCH, Attorney General,

Respondent.

No. 13-73531

Agency No. A098-992-660

MEMORANDUM*

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

Submitted November 18, 2015**

Before: TASHIMA, OWENS, and FRIEDLAND, Circuit Judges.

Luis Alberto Guillen-Corea, a native and citizen of Honduras, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's denial of his request for a continuance, and denying a motion to remand. We have jurisdiction under 8 U.S.C. § 1252. We review for

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

abuse of discretion the denial of a continuance and the denial of a motion to remand. *Malilia v. Holder*, 632 F.3d 598, 602 (9th Cir. 2011); *Romero-Ruiz v. Mukasey*, 538 F.3d 1057, 1062 (9th Cir. 2008). We deny in part and dismiss in part the petition for review.

The agency did not abuse its discretion in denying Guillen-Corea's request for a fifth continuance where there was no pending I-130 visa petition at the time of the continuance request and Guillen-Corea's first I-130 had been denied. *See Matter of Hashmi*, 24 I. & N. Dec. 785, 790-92 (BIA 2009) (listing factors to consider when determining if a continuance is warranted when an I-130 petition is *pending*, including the viability of the petition and previous denials (emphasis added)); *cf. Malilia*, 632 F.3d at 606-07 (applying *Hashmi* factors).

The BIA did not abuse its discretion in denying the motion to remand where Guillen-Corea provided no supporting evidence to prove the viability of his second I-130 petition. *See* 8 C.F.R. § 1003.2(c)(1).

We lack jurisdiction to consider Guillen-Corea's request for prosecutorial discretion. *See Vilchiz-Soto v. Holder*, 688 F.3d 642, 644 (9th Cir. 2012) (order).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.