

United States Court of Appeals
For the Eighth Circuit

No. 20-2904

Jose Luis Elias-Huinac

Petitioner

v.

Merrick B. Garland, Attorney General of United States

Respondent

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

Submitted: April 08, 2021

Filed: April 13, 2021

[Unpublished]

Before COLLOTON, BENTON, and STRAS, Circuit Judges.

PER CURIAM.

Guatemalan citizen Jose Luis Elias-Huinac petitions for review of an order of the Board of Immigration Appeals (BIA) denying his motion to reopen proceedings. Having jurisdiction under 8 U.S.C. § 1252, this court finds no basis for reversal.

This court concludes that Elias-Huinac's due process claim is without merit. *See Alva-Arellano v. Lynch*, 811 F.3d 1064, 1066 (8th Cir. 2016) (to establish due process violation, noncitizen must demonstrate both fundamental procedural error, and prejudice); *Nunez-Portillo v. Holder*, 763 F.3d 974, 977 (8th Cir. 2014) (no constitutionally protected liberty interest in discretionary remedy of cancellation of removal). The BIA did not abuse its discretion in denying Elias-Huinac's untimely motion to reopen. *See* 8 U.S.C. § 1229a(c)(7)(C)(i) (motion to reopen must be filed within 90 days of entry of final order of removal); *Vargas v. Holder*, 567 F.3d 387, 391 (8th Cir. 2009) (standard of review).

The petition is denied. *See* 8th Cir. R. 47B.
