

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

September 10, 2026

Christopher M. Wolpert
Clerk of Court

ROGELIO CELESTINO GAMBOA
ALMEIDA,

Petitioner,

v.

TODD BLANCHE, United States
Attorney General,*

Respondent.

No. 25-9584
(Petition for Review)

ORDER AND JUDGMENT*

Before **HARTZ, KELLY**, and **CARSON**, Circuit Judges.

Rogelio Celestino Gamboa Almeida, a native and citizen of Cuba, petitions for review of a Board of Immigration Appeals (BIA) decision dismissing his motion to reopen proceedings. Exercising jurisdiction under 8 U.S.C. § 1252(a)(1), we deny the petition.

* Todd Blanche is now the Attorney General of the United States and has been substituted as Respondent. *See* Fed. R. App. P. 43(c)(2).

* After examining the briefs and appellate record, this panel has determined unanimously to honor the parties' request for a decision on the briefs without oral argument. *See* Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

Background & Procedural History

Petitioner entered the United States in February 2024. Upon entry, the Department of Homeland Security (DHS) served him with a notice to appear (NTA) and initiated removal proceedings against him. The NTA informed Petitioner of the time, date, and location of his removal hearing before an immigration judge (IJ). Petitioner did not appear at the hearing. The IJ issued an in absentia removal order, found that DHS established removability, and ordered Petitioner removed to Cuba.

In April 2025, Petitioner filed a motion to reopen proceedings before the BIA. He argued that exceptional circumstances justified reopening his proceedings. Petitioner argued that his “memory loss and mental difficulties” caused him to miss his appearance, and that he was under the mistaken belief that immigration agents would tell him when and where to appear. R. at 10. Petitioner also argued that he was caring for his seriously ill daughter, which further complicated his ability to engage in his proceedings.

In October 2025 the BIA dismissed Petitioner’s motion to reopen for lack of jurisdiction. It held that Petitioner should have filed a motion to reopen before the IJ, not the BIA, thus depriving the BIA of jurisdiction over the matter. Petitioner then filed this petition for review.

Standard of Review

“We review the BIA’s decision on a motion to reopen only for an abuse of discretion. The BIA abuses its discretion when its decision provides no rational explanation, inexplicably departs from established policies, is devoid of any

reasoning, or contains only summary or conclusory statements.” *Maatougui v. Holder*, 738 F.3d 1230, 1239 (10th Cir. 2013) (brackets and internal quotation marks omitted).

Discussion

Before this court Petitioner argues that the BIA erred when it denied his motion to reopen because he established exceptional circumstances. He does not address the BIA’s jurisdictional ruling. *See Nixon v. City & Cnty. of Denver*, 784 F.3d 1364, 1366 (10th Cir. 2015) (“The first task of an appellant is to explain to us why the district court’s decision was wrong.”). Thus, as the government argues, Petitioner has waived his challenge to the BIA’s jurisdictional dismissal of his motion to reopen. *See Krastev v. INS*, 292 F.3d 1268, 1280 (10th Cir. 2002) (“Issues not raised on appeal are deemed to be waived.”). Because the BIA’s jurisdictional determination was dispositive, we need not address Petitioner’s exceptional-circumstances arguments. Petitioner has not demonstrated that the BIA abused its discretion when it dismissed his motion to reopen. We deny the petition for review.

Entered for the Court

Harris L Hartz
Circuit Judge