

United States Court of Appeals for the Fifth Circuit

No. 22-60068
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 11, 2023

Lyle W. Cayce
Clerk

SERGIO ORELLANA-ESPINOSA,

Petitioner,

versus

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

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
Agency No. A078 965 065

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

PER CURIAM:*

Sergio Orellana-Espinosa, a native and citizen of Guatemala, petitions for review of a decision of the Board of Immigration Appeals (BIA) dismissing his appeal from an order of the Immigration Judge denying his motion to reopen his proceedings based on lack of notice. Motions to reopen are “disfavored” and are reviewed under “a highly deferential abuse-of-

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

No. 22-60068

discretion standard.” *Spagnol-Bastos v. Garland*, 19 F.4th 802, 806 (5th Cir. 2021) (internal quotation marks and citation omitted). This standard requires a ruling to stand so long as it is not “capricious, irrational, utterly without foundation in the evidence based on legally erroneous interpretations of statutes or regulations, or based on unexplained departures from regulations or established policies.” *Id.* (internal quotation marks and citation omitted). Orellana-Espinosa’s conclusional assertions concerning actual notice and his reliance on a materially distinguishable case fail to meet this demanding standard. Insofar as he raises arguments concerning the correctness of the addresses in his notice to appear, we lack jurisdiction over these claims because they were not first presented to the BIA. *See Martinez-Guevara v. Garland*, 27 F.4th 353, 359-60 (5th Cir. 2022); 8 U.S.C. § 1252(d)(1). The petition for review is DENIED in part and DISMISSED in part for want of jurisdiction.