[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 18-12473
Non-Argument Calendar

Agency No. A088-156-359

ILYOS DILSHADBEKOVICH KHATAMOV,

Petitioner,

versus

U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of a Decision of the
Board of Immigration Appeals

(April 8, 2019)

Before ED CARNES, Chief Judge, BRANCH, and JULIE CARNES, Circuit Judges.

PER CURIAM:

In December 2006 Ilyos Khatamov, a native of Uzbekistan, filed an application for asylum, withholding of removal, and relief under the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. His application was denied by an immigration judge in March 2011. Khatamov appealed the IJ's decision to the Board of Immigration Appeals. The BIA dismissed his appeal in August of 2012.

Six years later Khatamov filed a motion to reopen those proceedings and remand under 8 C.F.R. § 1003.2(c).[1] Such a motion "must be filed no later than 90 days after the date on which the final administrative decision was rendered in the proceeding sought to be reopened." 8 C.F.R. § 1003.2(c)(2). That ninety-day time limit does not apply to a motion to reopen proceedings

> [t]o apply or reapply for asylum or withholding of deportation based on changed circumstances arising in the country of nationality or in the country to which deportation has been ordered, if such evidence is material and was not available and could not have been discovered or presented at the previous hearing.

Id. § 1003.2(c)(3)(ii). In support of his motion, Khatamov submitted evidence that he became a Jehovah's Witness in Florida after the BIA dismissed his application

[1] Khatamov also filed a successive and untimely application for asylum. See 8 U.S.C. § 1158(a)(2)(D); 8 C.F.R. § 1208.4. The BIA denied his application. He has not raised that denial on appeal, so he has abandoned any argument he may have about it. See AT&T Broadband v. Tech Commc'ns, Inc., 381 F.3d 1309, 1320 n.14 (11th Cir. 2004) ("Issues not raised on appeal are considered abandoned.").

in 2012, and he also submitted evidence that Jehovah's Witnesses are subject to restrictive, severe, and abusive treatment in Uzbekistan.

The BIA denied Khatamov's motion to reopen. The BIA found that his motion was untimely and that he "ha[d] not demonstrated the requisite change in country conditions to warrant untimely reopening" under 8 U.S.C. § 1229a(c)(7)(C)(ii) and 8 C.F.R. 1003.2(c) because he "ha[d] not offered any evidence with his motion that would indicate that the country conditions for Jehovah's Witness practitioners and/or proselytizers have materially changed since his last hearing."

Khatamov now seeks this court's review of the BIA's denial of his motion to reopen. He argues that the BIA erroneously read 8 C.F.R. § 1003.2(c)(3)(ii) to require proof of "changed country conditions" in order to allow the filing of an untimely motion to reopen when that section actually requires proof of "changed circumstances." And he argues that a change in his personal circumstances meets 8 C.F.R. § 1003.2(c)(3)(ii)'s "changed circumstances" requirement.

"We review the BIA's denial of a motion to reopen removal proceedings for abuse of discretion." Zhang v. U.S. Att'y Gen, 572 F.3d 1316, 1319 (11th Cir. 2009) (per curiam) (quotation marks and brackets omitted). We review de novo questions of law. Zhu v. U.S. Att'y Gen., 703 F.3d 1303, 1307 (11th Cir. 2013).

Khatamov is correct that 8 C.F.R. § 1003.2(c)(3)(ii) uses the term "changed circumstances" and not "changed country conditions." But the statutory provision that 8 C.F.R. § 1003.2(c)(3)(ii) implements — 8 U.S.C. § 1229a(c)(7)(C)(ii) — uses "changed country conditions," not "changed circumstances." 8 U.S.C. § 1229a(c)(7)(C)(ii) (providing that the ninety-day deadline to file a motion to reopen removal proceedings does not apply to a motion that "is based on changed country conditions arising in the country of nationality or the country to which removal has been ordered") (emphasis added). The BIA cited both 8 U.S.C. § 1229a(c)(7)(C)(ii) and 8 C.F.R. § 1003.2(c)(3)(ii) in finding that Khatamov did not meet the "changed country conditions" exception to the ninety-day deadline.

We have read 8 U.S.C. § 1229a(c)(7)(C)(ii) and 8 C.F.R. § 1003.2(c)(3)(ii) together as creating a "requirement of changed country conditions" to file a motion to reopen after the ninety-day deadline.[2] Zhang, 572 F.3d at 1319. That is what

[2] Khatamov did not cite or discuss 8 U.S.C. § 1229a(c)(7)(C)(ii) in his appellate brief. He instead focused on 8 C.F.R. § 1003.2(c)(3)(ii), arguing that the term "changed circumstances" as it is used in that regulation should be defined using the definition in 8 C.F.R. § 1208.4(a)(4)(i). But 8 C.F.R. § 1208.4(a)(4)(i) defines the term "changed circumstances" as it is used in a distinct (though related) statutory provision — 8 U.S.C. § 1158(a)(2)(D). That statutory provision addresses applications for asylum that are untimely, successive, or both. See 8 U.S.C. § 1158(a)(2)(D). The standard for filing such applications is more permissive than the standard for filing untimely motions to reopen, so we decline to conflate those standards in the way Khatamov proposes. Compare 8 U.S.C. § 1158(a)(2)(D) (allowing an alien to file an application for asylum that is untimely, successive, or both "if the alien demonstrates to the satisfaction of the Attorney General either the existence of changed circumstances which materially affect the applicant's eligibility for asylum or extraordinary circumstances relating to the delay in filing an application"), with 8 U.S.C. § 1229a(c)(7)(C)(ii) (allowing an alien to file an untimely motion to reopen only if the motion "is based on changed country conditions arising in the country of

the BIA did here. Unfortunately for Khatamov, "[a]n alien cannot circumvent the requirement of changed country conditions by demonstrating only a change in her personal circumstances." Id.; see also, e.g., Liu v. Holder, 560 F.3d 485, 492 (6th Cir. 2009) ("Without evidence of changed country conditions, . . . evidence of changed personal circumstances is insufficient to warrant reopening proceedings."). So the BIA did not abuse its discretion by denying Khatamov's motion to reopen removal proceedings.

PETITION DENIED.

nationality or the country to which removal has been ordered, if such evidence is material and was not available and would not have been discovered or presented at the previous proceeding").