

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 26-11935
Non-Argument Calendar

FRANCISCO ZENDEJAS,

Petitioner,

versus

U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of a Decision of the
Board of Immigration Appeals
Agency No. A096-525-317

Before BRANCH, ANDERSON, and WILSON, Circuit Judges.

PER CURIAM:

Francisco Javier Zendejas filed a “Motion for Review of Final Order of Removal, Cancellation of ICE Detainer and Request to Obtain FSA Time Credit” (“Motion”) seeking review of a June 2022

removal order issued by an Immigration Judge (“IJ”) and a stay of his removal to Mexico.¹ He requests this relief for “humanitarian” reasons because he has several medical conditions that require expensive dialysis treatment and a kidney donation in the United States. The Attorney General of the United States, Todd Blanche (“AG”), filed a motion for summary denial in response, arguing that Zendejas failed to exhaust his administrative remedies pursuant to the Immigration and Nationality Act (“INA”) § 242(d)(1), 8 U.S.C. § 1252(d)(1) and that in any case his petition is untimely under INA § 242(b)(1), 8 U.S.C. § 1252(b)(1). The AG also argues that Zendejas’s request for a stay should be denied as moot or, in the alternative, on the merits because his motion failed to make a “strong showing” of a likelihood of success on the same.

Summary disposition is appropriate either where time is of the essence, such as “situations where important public policy issues are involved or those where rights delayed are rights denied,” or where “the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case, or where, as is more frequently the case, the appeal is frivolous.” *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1161–62 (5th Cir. 1969).

¹ This case was originally filed with First Circuit Court of Appeals. When briefing was completed there, the Court determined that venue was more appropriate here because the removal order at issue was issued by an IJ in Atlanta, Georgia.

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We review our subject-matter jurisdiction de novo. *Lodge v. U.S. Att’y Gen.*, 92 F.4th 1298, 1301 (11th Cir. 2024).

INA § 242(d) imposes an exhaustion requirement on petitioners seeking review of agency removal orders in immigration proceedings. INA § 242(d)(1), 8 U.S.C. § 1252(d)(1). Before a court may review a final order of removal, the statute requires that the alien exhaust “all administrative remedies available to the alien as of right[.]” *Id.* Although it is merely a claims-processing rule—and thus must be raised by a party to be considered—it still prescribes the “method by which the jurisdiction granted the courts by Congress is to be exercised.” *Santos-Zacaria v. Garland*, 598 U.S. 411, 419 (2023) (quoting *Kontrick v. Ryan*, 540 U.S. 443, 454 (2004)); see also *Laguna Rivera v. U.S. Att’y Gen.*, 130 F.4th 915, 925 (11th Cir. 2025) (noting that the exhaustion requirement “precludes [this Court’s] review of a claim that was not presented to the BIA”). As a non-jurisdictional claims processing rule, the exhaustion requirement is “subject to waiver and forfeiture,” *Santos-Zacaria*, 598 U.S. at 419, 423, but the “rule is generally applied where . . . it has been asserted by a party,” *Kemokai v. U.S. Att’y Gen.*, 83 F.4th 886, 891 (11th Cir. 2023). To satisfy this burden, the alien must “us[e] all steps that the agency holds out, and do[] so *properly* (so that the agency addresses the issues on the merits),” and comply with “an agency’s deadlines and other critical procedural rules[.]” *Woodford v. Ngo*, 548 U.S. 81, 90–91 (2006) (emphasis in original).

Here, the AG is clearly right as a matter of law that Zendejas’s Motion should be denied because he failed to exhaust

his administrative remedies under INA § 242(d)(1), 8 U.S.C. § 1252(d)(1). *Groendyke Transp., Inc.*, 406 F.2d at 1161–62. The AG argues, and Zendejas concedes, that he did not file an appeal of the IJ’s decision with the Board of Immigration Appeals. Because the AG has asserted that Zendejas failed to exhaust his administrative remedies, the exhaustion requirement applies and we are precluded from review. *See Laguna Rivera*, 130 F.4th at 925; *Kemokai*, 83 F.4th at 891. Although Zendejas appears to argue that his indigent pro se status should excuse his failure to do so, there is no such exception in the statute. INA § 242(d)(1), 8 U.S.C. § 1252(d)(1). Because administrative exhaustion requires “using all steps that the agency holds out” to allow the agency to address the issue on the merits, Zendejas failed to meet this standard here. *Woodford*, 548 U.S. at 90.

Accordingly, absent administrative exhaustion, the IJ’s final order of removal is not reviewable here. INA § 242(d)(1), 8 U.S.C. § 1252(d)(1). Therefore, we GRANT the AG’s motion for summary denial and DENY Zendejas’s Motion, construed as a petition for review. Additionally, we DENY Zendejas’s stay motion as moot.