

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 28 2026

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ALFREDO PARADA CALDERON,

Petitioner,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 24-7433

Agency No.
A092-078-794

MEMORANDUM*

ALFREDO PARADA CALDERON,

Petitioner,

v.

TODD BLANCHE, Attorney General,

Respondent.

No. 25-2204

Agency No.
A092-078-794

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

Argued and Submitted May 19, 2026
San Francisco, California

Before: WARDLAW, BEA, and SANCHEZ, Circuit Judges.
Concurrence by Judge BEA.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Alfredo Parada Calderon (“Parada”), a native and citizen of El Salvador, petitions for review of two separate decisions of the Board of Immigration Appeals (“BIA”): one denying his motion to reopen removal proceedings and the other dismissing his appeal of an Immigration Judge’s (“IJ”) denial of his applications for asylum, withholding of removal, and protection under the Convention Against Torture (“CAT”). We have jurisdiction over both petitions under 8 U.S.C. § 1252(a). In a concurrently-filed opinion, we grant Parada’s petition as to the BIA’s denial of his motion to reopen and remand for further proceedings. While we observe error in Parada’s underlying removal proceedings as well, we deny this petition as moot in light of our resolution of the motion to reopen.

We review the IJ’s denial of a continuance sought for the purpose of obtaining counsel for an abuse of discretion. *Usubakunov v. Garland*, 16 F.4th 1299, 1304–05 (9th Cir. 2021). In *Usubakunov*, we recognized that this is a “fact-specific inquiry” and that “[w]e pay particular attention to the realistic time necessary to obtain counsel; the time frame of the requests for counsel; the number of continuances; any barriers that frustrated a petitioner’s efforts to obtain counsel, such as being incarcerated or an inability to speak English; and whether the petitioner appears to be delaying in bad faith.” *Id.* at 1304 (citation omitted). We have cautioned against a “myopic insistence on expeditiousness” on behalf of the agency. *Id.* at 1305 (citation omitted). And, we have recently reaffirmed that a

noncitizen “in removal proceedings need not show prejudice when he is denied counsel at the merits hearing before an immigration judge.” *Ruiz v. Bondi*, 172 F.4th 673, 679 (9th Cir. 2026).

Here, we have little doubt that the IJ’s “myopic insistence on expeditiousness” was an abuse of discretion. Parada was represented by the University of Georgia Appellate Clinic before the BIA and prevailed in that appeal. Following the BIA’s remand, Parada requested a continuance because the Clinic was unable to represent him in his proceedings before the IJ. Just one week after the BIA remanded the case, the IJ denied the motion and denied Parada’s applications for relief. A pro bono organization had already submitted a letter on Parada’s behalf to the IJ in support of Parada’s motion for a continuance noting that one of its pro bono attorneys was actively evaluating Parada’s case and was considering representing him. Moreover, Parada was detained at this time. Under the *Usubakunov* factors, the IJ abused her discretion by denying the motion for a continuance.¹ 16 F.4th at 1305.

¹ Contrary to our concurring colleague, we place minimal weight on the fact that Parada fired his prior attorney months before he requested a continuance. A noncitizen may choose to fire his attorney for any number of reasons, including poor advocacy, and Parada therefore may have been acting in his best interests by firing his original lawyer. Our concurring colleague makes no mention of the fact that a pro bono attorney was actively evaluating Parada’s case and considering representing him. The IJ thus exhibited the exact “myopic insistence on expeditiousness” that we have cautioned against.

Nonetheless, because our opinion will result in the reopening of Parada's removal proceedings, any remedy that would be directed at addressing the IJ's abuse of discretion is moot. On remand, Parada will have the opportunity to participate in a full merits hearing on a more complete record. For the same reason, the remainder of Parada's procedural and due process challenges to the IJ's decision are moot.

PETITION DENIED.²

² In our accompanying opinion, we **GRANT** Parada's motion to stay removal pending the issuance of the mandate. *See* Dkt. No. 2.

FILED

Parada Calderon v. Blanche, Nos. 24-7433, 25-2204.

BEA, Circuit Judge, concurring in the judgment:

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I concur in the result of the panel’s memorandum disposition¹ but write separately because I disagree with the majority’s conclusion that the Immigration Judge (“IJ”) abused her discretion in denying Petitioner Alfredo Parada Calderon’s (“Parada”) motion for a continuance to obtain counsel. Mem. Disp. at 3. The majority ignores that “[a]bsent a showing of clear abuse, we typically do not disturb an IJ’s discretionary decision not to continue a hearing.” *Usubakunov v. Garland*, 16 F.4th 1299, 1304 (9th Cir. 2021) (simplified). The IJ did not abuse her discretion because Parada was afforded “a full and fair hearing of his claims and a reasonable opportunity to present evidence on his behalf.” *Colmenar v. I.N.S.*, 210 F.3d 967, 971 (9th Cir. 2000).

Parada, a native and citizen of El Salvador, entered the United States unlawfully in 1980 and was accorded lawful permanent resident status in February 1990. The Department of Homeland Security commenced removal proceedings against Parada in October 2023. That same month, Parada made his first appearance in immigration court, accompanied by his privately provided attorney. Although his attorney helped him file his initial I-589 application, Parada dismissed her during a

¹ As discussed in the accompanying opinion, I also disagree with the panel that Parada’s motion to reopen should be granted.

late-November hearing before the IJ. Then, despite a four-week continuance to seek counsel and frequent reminders from the IJ that Parada could be represented by privately provided counsel (he of course had no right to publicly provided counsel in his civil removal proceedings), Parada did not obtain counsel for his merits hearings around two months later. Nor did Parada ask for more time to obtain counsel during either February 2024 merits hearing. *See United States v. Moriel-Luna*, 585 F.3d 1191, 1201–02 (9th Cir. 2009) (holding that petitioner’s right to counsel was not violated, in part, due to petitioner previously being represented by counsel and not asking for more time to find an attorney). Despite being pro se, Parada submitted country conditions evidence and presented testimony of multiple witnesses at his two merits hearings in February 2024. The IJ denied all forms of relief. Parada appealed the IJ’s denial of his application for CAT protection.

It was not until the BIA remanded the record to the IJ for the IJ to make additional findings of fact based on the evidence already in the record that Parada requested a continuance to obtain counsel. The IJ denied Parada’s request because she was not required by the BIA “to reopen the evidentiary record.” The IJ found “that the evidentiary record [was] more than sufficiently developed for the court to make a fully informed decision in this matter.” Further, the IJ did not find good cause to continue the proceedings because Parada was previously represented by an attorney, who he then fired, and the IJ had already granted Parada a continuance to

hire a new attorney. The BIA affirmed the IJ's decision because, "[a]s this case was decided on a closed record, there was no additional action for counsel to take before the [IJ] issued a new decision on the merits of [Parada's] claim."

Contrary to the majority's suggestion, *Usubakunov* is readily distinguishable from Parada's case. Mem. Disp. at 2–3. In *Usubakunov*, the IJ denied Usubakunov's first request for a continuance of his merits hearing, despite him telling the IJ that he had been "informed that Luis Gonzalez, an attorney from Catholic Charities, [was] very likely to represent [him] *pro bono*." 16 F.4th at 1302. The BIA concluded that Usubakunov's "right to counsel was not violated." *Id.* at 1303. We determined that "the IJ's denial of a continuance violated Usubakunov's right to counsel." *Id.* at 1305. We noted that despite Usubakunov's inability to speak English and his detention making it difficult for him to obtain counsel, Usubakunov "had all but obtained an attorney" and was unrepresented only because "that attorney was unavailable the day of the hearing." *Id.* at 1305–06.

In contrast, Parada is fluent in English and was unrepresented by an attorney only because he fired his attorney. Further, Parada's case was decided on a closed record and is therefore unlike those cases where a due process violation has been found because Parada's new counsel, if present, would not have been able further to develop the evidentiary record. See *Ruiz v. Bondi*, 172 F.4th 673, 679 (9th Cir. 2026); *Usubakunov*, 16 F.4th at 1305–07.

Therefore, I disagree that “the IJ abused her discretion by denying the motion for a continuance.” Mem. Disp. at 3. However, because I agree Parada’s petition should be denied, I concur.