

October 25, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-60047
Summary Calendar

FRANCIS OKOGWU,

Petitioner,

versus

ALBERTO R. GONZALES, U. S. ATTORNEY GENERAL,

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A26 086 621

Before DAVIS, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Francis Okogwu petitions for review of the Board of Immigration Appeals' (BIA) December 23, 2005, order denying as untimely a motion to reopen Okogwu's appeal from an Immigration Judge's order of removal. Because the petition for review is timely only as to the December 23, 2005, order, we lack jurisdiction to address Okogwu's arguments concerning the merits of the order of removal. Stone v. INS, 514 U.S. 386, 394 (1995). We also lack jurisdiction to consider Okogwu's request for discretionary cancellation of removal under 8 U.S.C. § 1229(b)(a)

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

because he has not exhausted administrative remedies as to this issue. Roy v. Ashcroft, 389 F.3d 132, 137 (5th Cir. 2004).

Okogwu has not shown that the BIA abused its discretion in denying the motion to reopen. Manzano-Garcia v. Gonzales, 413 F.3d 462, 469 (5th Cir. 2005). He has not identified any "extraordinary or unique circumstances" that would explain the delay in delivery or why he could not mail the motion to reopen to the BIA at an earlier date. He has failed to show that he warrants tolling of the limitation period for filing the motion with the BIA. Zhong Guang Sun v. United States, 421 F.3d 105, 110-11 (2nd Cir. 2005). We note that the "mailbox rule" does not apply to filings in administrative agency proceedings. Karimian-Kaklaki v. INS, 997 F.2d 108, 112 (5th Cir. 1993).

The petition for review is DENIED.