

July 10, 2003

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III  
Clerk

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No. 02-21287  
Summary Calendar

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OBIMEFUNA O. ANYAH,

Petitioner-Appellant,

versus

MICHAEL HESTON, Acting District  
Director, INS; JAMES ZIGLAR,  
Commissioner of INS; JOHN ASHCROFT,  
Attorney General for USA,

Respondents-Appellees.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-02-CV-1537

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Before GARWOOD, JOLLY and SMITH, Circuit Judges.

PER CURIAM:\*

Obimefuna O. Anyah(Anyah) appeals the district court's denial of his 28 U.S.C. § 2241 petition challenging his removal pursuant to 8 U.S.C. § 1229a(a)(5)(A), which authorizes the removal, *in absentia*, of any alien who fails to attend a removal proceeding

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\*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 R. 47.5 the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

after being given notice thereof. He argues that his constitutional right to due process was violated because he was detained and ordered removed without proper notice and without the opportunity to be heard in his removal proceedings.

Contrary to the Government's assertions, we have jurisdiction over Anyah's 28 U.S.C. § 2241 petition because, as an alien who is removable for having committed an aggravated felony, he is precluded by 8 U.S.C. § 1252(a)(2)(C) from seeking direct judicial review, and his petition raises questions of law only. See *Calcano-Martinez v. INS*, 533 U.S. 348, 351-52 (2001); *INS V. St. Cyr*, 533 U.S. 289, 314 (2001).

The Immigration and Naturalization Service (INS) properly sent the notices of Anyah's removal proceeding and hearing to the last address provided by him. See 8 U.S.C. § 1992(a)(1); *United States v. Estrada-Trochez*, 66 F.3d 733, 736 (5th Cir. 1995). Anyah did not notify the INS of his change of address as required by 8 U.S.C. § 1305. See *Estrada-Trochez*, 66 F.3d at 736. Moreover, Anyah has not demonstrated that he did not receive notice or that his failure to appear at his removal hearing was due to "exceptional circumstances." See 8 U.S.C. § 1229a(b)(5)(C). Accordingly, we conclude that Anyah was not denied due process of law and is not entitled to habeas relief. See *Estrada-Trochez*, 66 F.3d at 736.

AFFIRMED.