

April 15, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-60412
Summary Calendar

AKTAR CHOWDHURY,

Petitioner,

versus

JOHN ASHCROFT, U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A72 449 550

Before SMITH, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:*

Aktar Chowdhury initially petitioned this court for review of a final order of the Board of Immigration Appeals (BIA) affirming the immigration judge (IJ)'s decision denying his motion to reopen his removal proceedings. After Chowdhury filed his petition for review in this court, the BIA granted his application to reopen his removal proceedings, sustained Chowdhury's appeal, withdrew the IJ's order of removal, and remanded to the IJ for further proceedings and the entry of a new decision. Chowdhury then moved

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

this court for dismissal of his petition without prejudice as moot.

The exhaustion requirement is statutorily mandated and is jurisdictional. Townsend v. United States Dep't of Justice INS, 799 F.2d 179, 181 (5th Cir. 1986); 8 U.S.C. § 1252(d)(1). Therefore, we lack jurisdiction to review the BIA's denial of Chowdhury's appeal from the IJ's denial of his motion to reopen his removal proceedings and Chowdhury's petition for review is moot. See Townsend, 799 F.2d at 181-82.

Petition for review DISMISSED as moot; motion to dismiss DENIED as unnecessary.