

F I L E D

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

November 10, 2005

Charles R. Fulbruge III
Clerk

No. 04-60636
Summary Calendar

SOPHAL UCH

Petitioner,

versus

ALBERTO R. GONZALES,
U.S. ATTORNEY GENERAL

Respondent.

Petition for Review of an Order of the Board of Immigration Appeals
A78-874-394

Before REAVLEY, HIGGINBOTHAM, and CLEMENT, Circuit Judges.

PER CURIAM:*

Petitioner's Petition for Review is denied for this reason:

1. The Removal Proceedings statute, 8 U.S.C. § 1229a, allows for rescission of an order of removal upon a showing of "exceptional circumstances." "The term 'exceptional circumstances' refers to exceptional circumstances (such as serious illness of the alien or serious illness or death of the spouse, child, or parent of the alien, but not including less compelling circumstances) beyond

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the control of the alien.”

2. In *De Morales v. INS*, 116 F.3d 145 (5th Cir. 1997) the petitioner aliens claimed they did not attend their hearing because of an automobile malfunction. The petitioners failed to contact the immigration judge to explain what happened for two weeks until after they received notice of the deportation order. Noting the two week delay, this Court found that an automobile malfunction was not sufficiently similar to a serious illness so as to establish “exceptional circumstances.” Uch’s entire argument rests on ineffective assistance of counsel. Ineffective assistance of counsel is no more similar to serious illness than were the car troubles at issue in *De Morales*.

Petition Denied.