

November 2, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-60707
Summary Calendar

EDUARDO ALFREDO TALLEDO-ACOSTA,

Petitioner,

versus

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

Respondent.

Petitions for Review of an Order of the
Board of Immigration Appeals
BIA No. A27 619 111
BIA No. A90 260 498

Before KING, HIGGINBOTHAM, and GARZA, Circuit Judges.

PER CURIAM:*

Eduardo Alfredo Talledo-Acosta seeks review of the Board of Immigration Appeals' (BIA) denial as untimely of his motion to reopen immigration proceedings. Talledo-Acosta asserts that the denial of his motion to reopen was a violation of his Fifth Amendment due process rights because he has never been granted an opportunity to present evidence on behalf of his application for adjustment of status, which is based on a 1995-approved I-140 immigrant worker visa petition filed by his prospective employer.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 decision to reopen proceedings is a discretionary decision, and this court applies a highly deferential abuse of discretion standard when reviewing the BIA's denial of a motion to reopen. Lara v. Trominski, 216 F.3d 487, 496 (5th Cir. 2000). Talledo-Acosta does not challenge the BIA's ruling that his motion to reopen his 1986 deportation proceedings was untimely filed. Thus, any challenge to the timeliness of his motion to reopen is deemed abandoned. See Soadjede v. Ashcroft, 324 F.3d 830, 833 (5th Cir. 2003). Because there is no protected liberty interest in a motion to reopen, Talledo-Acosta cannot establish a due process violation under the Fifth Amendment. See Altamirano-Lopez v. Gonzales, 435 F.3d 547, 551 (5th Cir. 2006).

Accordingly, Talledo-Acosta's petition for review is DENIED.