

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-60776

MOHAMMAD IMTIAZ AHMED,

Petitioner,

v.

JOHN ASHCROFT, U.S. Attorney General,

Respondent.

Petition For Review of an Order
of the Board of Immigration Appeals
A72 511 281

October 10, 2001

Before DUHÉ and BENAVIDES, Circuit Judges, and RESTANI*, District Judge.

PER CURIAM:**

Petitioner Mohammad Ahmed petitions for review of an order of the Board of Immigration Appeals (the "Board") dismissing his appeal from the immigration judge's denial of Ahmed's motion to reopen his deportation proceedings. After careful consideration of

* Judge, U.S. Court of International Trade, sitting by designation.

** 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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 briefs on file, the oral arguments presented upon submission, and the record before us, we are convinced that, whether we examine the Board's order of dismissal or the immigration judge's decision denying his motion to reopen, no error or abuse of discretion with respect to the denial of Ahmed's request to reopen has been shown.

In denying the petition for review, we note that (1) petitioner clearly failed to file a timely motion to reopen; and (2) failed to establish that equitable tolling, even were it applicable to the limitations period, is appropriate in this case. Finally, we find no merit to the suggestion that the Board erred in not exercising its discretionary authority to *sua sponte* order the proceeding reopened. Accordingly, the petition for review is DENIED.