

July 14, 2003

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 03-30215
Summary Calendar

GEORGE LIVINGSTON QUEELEY,

Petitioner-Appellant,

versus

JOHN ASHCROFT; JAMES W. ZIGLAR;
CHRISTINE DAVIS; WALTER D. CADMAN;
IMMIGRATION AND NATURALIZATION SERVICE,

Respondents-Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 02-CV-489

Before GARWOOD, WIENER and DENNIS, Circuit Judges.

PER CURIAM:*

George Queeley appeals the district court's judgment dismissing his petition for a writ of habeas corpus with prejudice. Queeley argues that the district court erred in concluding that the Board of Immigration Appeals (BIA) properly denied his motion to

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 R. 47.5 the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

reopen his deportation case in light of *INS v. St. Cyr*, 533 U.S. 289 (2001). He has not, however, established that the BIA erred in denying his motion to reopen because Queeley was not entitled to discretionary relief, even in light of *St. Cyr*, as his 1998 marihuana conviction constituted an aggravated felony. See 8 U.S.C. § 1143(a)(43)(B); 18 U.S.C. § 924(c)(2); 21 U.S.C. § 844(a).

Queeley also contends that the BIA denied him equal protection by refusing to reopen his case, although it allowed another individual to move for discretionary relief or cancellation of removal. Queeley, however, has not established that he and the other permanent resident to whom he refers were "similarly situated." See *City of Cleburne, Tex. v. Cleburne Living Center*, 473 U.S. 432, 439 (1985). Consequently, the judgment of the district court is

AFFIRMED.