

March 29, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-60211
Summary Calendar

MICHAEL EZEKWESIRI AGUGUA,

Petitioner,

versus

ALBERTO R. GONZALES, U. S. ATTORNEY GENERAL

Respondent.

**Petition for Review of an Order of the
Board of Immigration Appeals
(A29-300-558)**

Before DAVIS, BARKSDALE, AND BENAVIDES, Circuit Judges.

PER CURIAM:*

Michael Ezekwesiri Agugua, a native and citizen of Nigeria, petitions this court for review of a Board of Immigration Appeals (BIA) order affirming the immigration judge's (IJ) order denying his request for cancellation of removal. Agugua argues that the BIA erred by denying his request for cancellation of removal under 8 U.S.C. § 1229b. Agugua also moves this court for a stay of removal. For the reasons that follow, the motion is denied.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 BIA's determination that cancellation of removal was not warranted under the facts of the case was a discretionary denial of relief that this court does not have jurisdiction to review. See 8 U.S.C. § 1252(a)(2)(B)(i); *Wilmore v. Gonzales*, 455 F.3d 524, 526-28 (5th Cir. 2006); *Rueda v. Ashcroft*, 380 F.3d 831, 831 (5th Cir. 2004). We note that Agugua's contention that he was erroneously found to be ineligible for cancellation of removal based on his conviction of an aggravated felony offense is unsupported by the record. We dismiss the petition to the extent that it seeks review from the BIA's discretionary decision to deny cancellation of removal.

Agugua argues that the denial of cancellation of removal violated his due process rights. We have jurisdiction to consider this legal question. *Hernandez-Castillo v. Moore*, 436 F.3d 516, 519 (5th Cir.), *cert. denied*, 127 S. Ct. 40 (2006). The argument is unavailing, however, as Agugua's "[e]ligibility for discretionary relief from a removal order is not a liberty or property interest warranting due process protection." See *Mireles-Valdez v. Ashcroft*, 349 F.3d 213, 219 (5th Cir. 2003) (internal quotation marks and citation omitted). To the extent that Agugua's claim challenges the BIA's denial of cancellation of removal on due process grounds, the petition is denied.

PETITION DISMISSED IN PART, DENIED IN PART;

MOTION FOR STAY OF REMOVAL DENIED