

July 13, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-60688
Summary Calendar

CHELLADURAI PALANI,

Petitioner,

versus

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

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A95 607 698

Before DAVIS, BARKSDALE and BENAVIDES, Circuit Judges.

PER CURIAM:*

Chelladurai Palani, a native and citizen of India, petitions this court to review the decision of the Board of Immigration Appeals (BIA) dismissing his appeal of the Immigration Judge's (IJ) decision ordering him removed to India. The IJ refused to terminate or administratively close Palani's removal proceedings because Palani had not obtained the concurrence of the Department of Homeland Security. The IJ determined that Palani was removable after Palani admitted that he had overstayed his nonimmigrant visa. Palani appealed to the BIA, and the BIA,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

mistakenly believing that no final order of removal had been entered, treated Palani's appeal as interlocutory and did not consider the issues raised therein. The IJ returned the record to the BIA for further review, notifying the BIA that an order of removal had been previously entered. Thereafter, the BIA dismissed Palani's appeal on its merits.

Palani argues that the IJ erred when the IJ returned the case to the BIA for further review without first calling Palani into court to determine the possibility of any application for relief from removal. Palani did not raise this claim before the BIA in his appeal, which was briefed before the alleged error occurred, or in a motion to reopen his deportation proceedings. Accordingly, we lack jurisdiction to consider Palani's petition for review. See 8 U.S.C. § 1252(d)(1); Roy v. Ashcroft, 389 F.3d 132, 137 (5th Cir. 2004). Palani's petition for review is DISMISSED FOR LACK OF JURISDICTION.