

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

December 21, 2007

Charles R. Fulbruge III
Clerk

No. 06-60732
Summary Calendar

JAIME NIETO

Petitioner

v.

MICHAEL B MUKASEY, U S ATTORNEY GENERAL

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A96 030 235

Before KING, DeMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Jaime Nieto, a native and citizen of Mexico, petitions this court for review of an order by the Board of Immigration Appeals (BIA) affirming the decision of an Immigration Judge (IJ) finding him removable, denying his application for an adjustment of status under Immigration and Nationality Act (INA) § 245(i), 8 U.S.C. § 1255(i), and ordering his voluntary departure or in the alternative, removal to Mexico. Nieto contends that the IJ erred in determining that his inadmissibility under INA § 212(a)(9)(C)(i)(I), 8 U.S.C. § 1182(a)(9)(C)(i)(I), for

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

which there is no waiver, rendered him ineligible to adjust his status from that of an illegal alien physically present in the United States to that of a lawful permanent resident.

We have previously upheld as reasonable the BIA's interpretation that compliance with the requirements of § 1255(i) does not cure inadmissibility under § 1182(a)(9)(C)(i)(I). The BIA did not act arbitrarily in determining that because Nieto was inadmissible under § 1182(a)(9)(C)(i)(I), he was ineligible for an adjustment of status under § 1255(i). See *Mortera-Cruz v. Gonzales*, 409 F.3d 246, 255-56 (5th Cir. 2005). Consequently, the BIA's decision is entitled to deference. *Id.*

PETITION DENIED.