**IN THE UNITED STATES COURT OF APPEALS**
**FOR THE FIFTH CIRCUIT**

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**No. 92-4703**
**Summary Calendar**

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**AMADO FELIX-AGACITA,**

**Petitioner,**

**v.**

**IMMIGRATION AND NATURALIZATION SERVICE,**

**Respondent.**

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Petition for Review of an Order of the
Board of Immigration Appeals
(A19 205 126)

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(December 9, 1992)

Before GARWOOD, JONES, and EMILIO GARZA, Circuit Judges.*

PER CURIAM:

Appellant Felix-Agacita challenges the decision of the Board of Immigration Appeals requiring deportation and denying his petition for waiver of deportability pursuant to Section 212(c) of the Immigration and Naturalization Act. 8 U.S.C. § 1182(c). He complains of procedural irregularities and asserts that the

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*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

decision denying deportability represented an abuse of discretion. We find no error and affirm.

Felix-Agacita raises a number of procedural challenges to the deportation hearing, including improper venue, lack of opportunity to obtain counsel, and lack of a fair hearing because of the remoteness of the Oakdale, Louisiana hearing from his family in California. These challenges are meritless. Felix-Agacita did not complain of improper venue in the proceeding before the immigration judge, and the judge afforded him every possible opportunity to obtain legal counsel. Felix-Agacita never consulted the attorneys on the legal aid list furnished him by the immigration judge. At one point he did hire an attorney, but apparently final arrangements for payment were never completed. The immigration judge granted six continuances, lasting over a six-month period, so that Felix-Agacita could straighten out the matter of legal representation. Finally, Felix-Agacita agreed to proceed without counsel. Appellant submitted an affidavit from his father, testified himself, and does not allege on appeal what additional information he might have been able to bring forth if he had had an attorney or had successfully changed venue. For all these reasons, we find no procedurally irregularity in the proceedings against appellant, and he has not shown that he was denied due process rights in this case. See, e.g. Patel v. INS, 803 F.2d 804, 807 (5th Cir. 1986).

On the merits, this court reviews the denial of an application for § 212(c) relief for abuse of discretion. Diaz-

Resendez v. INS, 960 F.2d 493, 495 (5th Cir. 1992). The Board's denial will be upheld "unless it is arbitrary, irrational, or contrary to law." Id. Appellant principally contends that the immigration judge, whose decision was affirmed by the Board, did not look at all the equities in this case and instead denied relief because appellant was convicted of a drug trafficking crime. We disagree with appellant's characterization of the immigration judge's and the Board's decisions. Although the immigration judge did refer to the national "war on drugs," he also considered the equities favoring appellant and balanced those not only against the cocaine charge but also against appellant's other criminal law violations. The Board, in performing its review function, similarly did not rely only on appellant's conviction of a drug trafficking crime. The Board relied on the proper legal standard, and exercised its broad discretion to deny relief from deportation. We do not find its decision an abuse of discretion.

In a lengthy reply brief, appellant raises a number of new procedural issues such as "res judicata", failure to issue a valid order to show cause, and INS's violation of its own procedural rules. To the extent we can understand these claims, they are raised in Felix-Agacita's reply brief for the first time in his deportation proceedings. As the brief acknowledges, this court does not consider issues raised for the first time in a reply brief and never asserted in the proceedings below unless failure to do so would work a manifest injustice. United States v. Garcia-Pillado, 898 F.2d 36, 39 (5th Cir. 1990). Contrary to appellant's

assertions, the points he belatedly attempts to make do not rise to the level of demonstrating that there has been any manifest miscarriage of justice.

The judgment of the Board of Immigration Appeals is **AFFIRMED**.