UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-4807
Summary Calendar

ALEXANDER JOSEPH OPARAH,

Petitioner,

VERSUS

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

Petition for Review of an Order
of the Board of Immigration Appeals
(A23 587 904)

(January 28, 1993)

Before JOLLY, DUHÉ, and BARKSDALE, Circuit Judges.

PER CURIAM:[1]

Alexander Joseph Oparah petitions for review from the dismissal by the Board of Immigration Appeals (BIA) of his appeal from a denial of a waiver of deportability under 18 U.S.C. § 1251(f). We **DISMISS** the petition.

I.

In December 1986, Oparah was convicted for unlawfully obtaining an immigrant visa, in violation of 18 U.S.C. § 1546,

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[1] Local Rule 47.5.1 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 Pursuant to that rule, the court has determined that this opinion should not be published.

based on a false statement he made in his visa application regarding his brief sham marriage to a United States citizen. Shortly thereafter, the INS initiated deportation proceedings against Oparah under § 241(a)(5) of the Immigration and Nationality Act, 8 U.S.C. § 1251(a)(5).[2] At his hearing, Oparah sought a waiver of deportation under § 241(f) of the Act, 8 U.S.C. § 1251(f), based on his November 1986 marriage to another United States citizen.[3] The Immigration Judge found Oparah deportable as

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[2] The 1990 amendments recodifying § 241(a) apply only to deportation proceedings for which notice was given on or after March 1, 1991, and thus do not apply to Oparah. *See* Immigration Act of 1990, Pub. L. No. 101-649, 104 Stat. 4378 (Nov. 29, 1990). The former § 241(a)(5), applicable to this case, provides in relevant part:

> (a) ... Any alien in the United States ... shall, upon the order of the Attorney General, be deported who --
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> (5) ... has been convicted under section 1546 of title 18....

[3] The 1990 amendments recodifying § 241(f)(1) are likewise inapplicable. *See supra* note 2. The former § 241(f)(1), applicable to this case, provides in relevant part:

> (A) The provisions of this section relating to the deportation of aliens within the United States on the ground that they were excludable at the time of entry as aliens who have sought to procure or have procured visas or other documentation, or entry into the United States, by fraud or misrepresentation, whether willful or innocent, may in the discretion of the Attorney General, be waived for any alien ... who --
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> (i) is the spouse, parent, or child of a citizen of the United States or of an alien lawfully admitted to the United States for permanent residence; and
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> (ii) was is possession of an immigrant visa or equivalent document and was otherwise admissible to the United States at the time of such entry except for those grounds of inadmissibility specified under paragraphs (14), (20), and (21) of section 1182(a) of this title which were a

charged and ineligible for relief under § 241(f). Oparah appealed to the Board of Immigration Appeals (BIA), which dismissed his appeal.

II.

Oparah makes the same contentions here that he made to the BIA: (1) that the order to show cause, which informed Oparah, with statutory cites, of his immigration violation, was insufficient to put him on notice of the allegations against him; (2) that the BIA erred in interpreting the waiver provisions of § 241(f) not to apply to deportation grounded on § 241(a)(5); and (3) that his reentry into the United States in 1986, following a brief visit outside, renders him excludable under § 212(a)(19) of the Act, 8 U.S.C. § 1182(a)(19), and thus eligible for a § 241(f) waiver.

We review the BIA's factual finding of Oparah's deportability under the substantial evidence standard, *see* 8 U.S.C. § 1105a(a)(4), which "requires only that the [BIA's] conclusion be based upon the evidence presented and be substantially reasonable". ***Rojas v. INS***, 937 F.2d 186, 189 (5th Cir. 1991). And, we, of course, "accord[] deference to the [BIA's] interpretation of immigration statutes unless there are compelling indications that

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direct result of that fraud or misrepresentation.

(B) A waiver of deportation for fraud or misrepresentation granted under subparagraph (A) shall also operate to waive deportation based on the grounds of inadmissibility at entry described under subparagraph (A)(ii) directly resulting from such fraud or misrepresentation.

the [BIA's] interpretation is wrong". ***Silwany-Rodriquez v. INS***, 975 F.2d 1157, 1160 (5th Cir. 1992)(citations omitted).

We have reviewed the BIA's opinion addressing the above contentions and find it well-reasoned, thorough, and well within these standards.[4] For the reasons stated in that opinion, we **DISMISS** the petition.

III.

The petition for review is

DISMISSED.

[4] Oparah erroneously contends that the BIA failed to address his third contention. On the contrary, the BIA explained at length why possible excludability under § 212(a)(19) (which was never even alleged by the INS) is irrelevant when the INS relies on a separate ground for deportation, independent of whether an alien was excludable at the time of entry.