

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-4034

Summary Calendar

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DESLAND SINCLAIR,

Petitioner,

versus

IMMIGRATION AND NATURALIZATION  
SERVICE,

Respondent.

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Petition for Review of an Order of  
Immigration and Naturalization Service  
(A38 675 739)

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(October 1, 1993)

Before KING, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

In 1991 a New York court convicted petitioner Sinclair of two counts of criminal possession of a weapon in the third degree. The government then sought his deportation. In October of 1992 an immigration judge ordered him deported and the Board of Immigration Appeals affirmed. We affirm the Board's decision and dismiss Sinclair's petition for review.

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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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Sinclair contends that he was denied due process of law because he did not have counsel at his deportation hearing. The record shows that he was informed in writing of his right to have counsel at no expense to the government on September 3, 1992, and was again told of his right by the immigration judge on September 12. On the 12th the judge gave him a list of organizations that provide legal services at immigration proceedings for little or no charge. The judge then granted two continuances to enable Sinclair to seek counsel. At the hearing the judge explained his decisions and frequently confirmed that Sinclair understood them. We find no denial of due process under these circumstances. See United States v. Campos-Asencio, 822 F.2d 506, 509 (5th Cir. 1987).

Sinclair also contends that his firearms convictions do not bring him within the statute defining classes of deportable aliens, 8 U.S.C. § 1251. This contention fails. 8 U.S.C. § 1251(a)(2)(C) makes deportable "[a]ny alien who at any time after entry is convicted under any law of . . . possessing . . . a firearm or destructive device (as defined in section 921(a) of Title 18)." As the .25 caliber Beretta he possessed qualifies as a weapon "which will . . . expel a projectile by the action of an explosive" under 18 U.S.C. § 921(a), Sinclair falls squarely within § 1251 and the board properly affirmed the immigration judge's decision that Sinclair was deportable.

AFFIRMED