UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 93-4875
Summary Calendar

DWIGHT CHRISTOPHER ABRAHAMS,

Petitioner,

VERSUS

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

Petition for Review of an Order
of the Immigration and Naturalization Service
(A40 089 687)

(December 7, 1993)

Before DAVIS, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:[1]

Following conviction for a drug offense, Abrahams admitted his deportability before the immigration judge, but asked that his deportation proceeding be continued for about two months so that he could accumulate the necessary seven years of unrelinquished domicile in this country in order to attempt to qualify for relief from deportation under 8 U.S.C. § 1182(c). His request was denied and he was ordered deported. The Board of Immigration Appeals affirmed. Pending appeal to the Board, Abrahams acquired the necessary domicile under 1182(c). Abrahams filed his application

---

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

for relief thereunder with the Board of Immigration Appeals and moved for a hearing on the merits of his relief application. The Board treated his motion as one to remand and reopen. It denied the motion and the appeal. Abrahams petitions this Court for review.

Two issues are raised: First, did the immigration judge err in refusing Abrahams a continuance so that he could accumulate the necessary domicile to become statutorily eligible to seek relief under § 1182(c)? Second, under the facts presented here, did the Board of Immigration Appeals err in denying his motion for an evidentiary hearing? We are mindful of the narrow scope of our review, and answer both questions in the negative. See INS v. Doherty, 112 S.Ct. 719, 724 (1992); INS v. Elias-Zacarias, 112 S.Ct. 812, 815, 817 (1992).

The immigration judge correctly held that he was without authority to grant a delay under these facts. The alien was not eligible for § 1182(c) relief. Congress has made clear that aliens convicted of drug offenses are to be promptly deported and any delay to allow an unqualified alien to seek to qualify for relief would thwart that congressional purpose. See Ghassan v. INS, 972 F.2d 631, 636 & n.8, 639 (5th Cir. 1992), cert. denied, 113 S.Ct. 1412 (1993); Ignacio v. INS, 955 F.2d 295, 299 (5th Cir. 1992); 8 U.S.C. § 1252(i); see also 136 Cong. Rec. S17118 (daily ed. October 26, 1990) (statement of Sen. Graham). We can find no abuse of the immigration judge's discretion here where the alien admits deportability and, at the time of the hearing, he was not qualified

to seek the remedy he claims.

We likewise reject Abrahams' argument that he was entitled to a hearing on the merits of his claim for relief because he achieved statutory eligibility before the Board of Immigration Appeals issued a final order of deportation. The cases cited by Abrahams do not support his position. First of all, the Board of Immigration Appeals is an appellate body and does not conduct evidentiary hearings. See 8 CFR § 3.1. The Board correctly considered Abrahams' motion as one to remand to the immigration judge and reopen. As a motion to remand and reopen, his pleading was insufficient because he set forth no facts showing that, upon remand, he could show that he was entitled to relief under § 1182(c). Yahkpua v. INS, 770 F.2d 1317, 1320 (5th Cir. 1985); Sanchez v. INS, 707 F.2d 1523, 1525-26 (D.C. Cir. 1983). Abrahams' argument that a meaningful case for relief cannot be presented by affidavit to the Board of Immigration Appeals is unconvincing. Factors to be weighed in cases involving § 1182(c) relief are well known and present no particular difficulty of presentation.

We do note that Abrahams was able to contend, and offer evidence of, his substantial cooperation with the prosecution in the drug matter in which he pled and that his cooperation lead to the apprehension and conviction of other defendants. We point out, however, that the reward for that cooperation was in the reduced sentence imposed. The fact that Abraham may be in danger from his former criminal confederates after his deportation to his native country is a consequence of his criminal activity and not of his deportation.

AFFIRMED.