IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 93-5059
Summary Calendar

LAWRENCE IWUALA,

Petitioner,

versus

IMMIGRATION and NATURALIZATION SERVICE,

Respondent.

Petition for Review of an Order of the Immigration and Naturalization Service (72 425-800)

(April 14, 1994)

Before JOLLY, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Lawrence Iwuala ("Iwuala"), seeking to avoid deportation to his native land, appeals the decision of the Board of Immigration Appeals ("BIA"), which found him deportable under two provisions of the Immigration and Nationality Act of 1952 ("the Act"). 8 U.S.C. §§ 1101-1157 (1970 & Supp. 1994). Because we find that the

---

*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 Pursuant to that Rule, the court has determined that this opinion should not be published.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 of the BIA is supported by substantial evidence, we affirm.

I

Iwuala, a native and citizen of Nigeria, entered the United States on August 26, 1984, as a non-immigrant student authorized to attend Texas Southern University in Houston, Texas, for the duration of his status.[1] Several months after he entered the country, on November 8, he was convicted in Texas state court for unlawfully carrying a loaded shotgun. Soon thereafter, in December 1984, Iwuala stopped attending Texas Southern University, and he failed to enroll as a student at any other educational institution.

On April 23, 1993, the INS charged Iwuala as deportable under 8 U.S.C. §§ 1251(a)(1)(C)(i) & (a)(2)(C) (Supp. 1994),[2] for failure

---

[1]Iwuala has apparently entered this country several other times; however, none of these entries are relevant to the adjudication of this case.

[2]Section 1251(a)(1)(C)(i) provides:

> Any alien who was admitted as a nonimmigrant and who has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 1258 of this title, or to comply with the conditions of any such status, is deportable.

8 U.S.C. § 1251(a)(1)(C)(i) (Supp. 1994). Section 1251(a)(2)(C) provides:

> Any alien who at any time after entry is convicted under any law of purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying in violation of any law, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of Title 18) is deportable.

to maintain his student status and for his conviction of a firearm offense. During his deportation hearing on May 6, 1993, Iwuala conceded deportability by admitting that he failed to maintain his student status and that he had been convicted of a firearm offense. When given an opportunity to explain the circumstances of his case, Iwuala set forth a rambling and unintelligible discourse concerning a "conspiracy attack" against him. Iwuala was then allowed additional time to gather information concerning the possibility of obtaining relief from deportation through relatives. On May 13, Iwuala appeared at a second hearing; however, he failed to present additional information that would allow the IJ to suspend deportation. With respect to the conspiracy allegations, the IJ stated that she rejected those allegations as "irrelevant to the disposition of [the] case." Accordingly, the IJ found that the government had established Iwuala's deportability by clear, convincing and unequivocal evidence.

Iwuala appealed the IJ's decision to the BIA. The BIA dismissed the appeal, noting that Iwuala admitted that he failed to maintain his student status and that he had been convicted of a firearm offense. The BIA also noted Iwuala's conspiracy allegations, and like the IJ, rejected them as irrelevant to the adjudication of deportability. Iwuala now appeals to this court the BIA's determination of his appeal.

---

8 U.S.C. § 1251(a)(2)(C) (Supp. 1994).

II

On appeal, Iwuala contends that the decision to deport him should be reversed based on his vague allegations of the existence of some conspiracy against him. Although Iwuala's description of the details of this conspiracy is less than articulate, it appears that he asserts that his wife and others, including unidentified members of the federal government, concocted a scheme to have Iwuala charged with crimes and deported as a result of envy of his scholarship abilities. Significantly, Iwuala never denies that he possessed a firearm or ceased being a student but rather claims that the conspiracy excused that conduct.

We are authorized to review only the order of the BIA, not the decision of the immigration judge. Castillo-Rodriguez v. INS, 929 F.2d 181, 183 (5th Cir. 1991). In reviewing the BIA's actions, we examine the factual findings to determine if they are supported by substantial evidence. INS v. Elias-Zacarias, ___ U.S. ___, 112 S.Ct. 812, 815, 117 L.Ed.2d 38 (1992); Rojas v. INS, 937 F.2d 186, 189 (5th Cir. 1991). The substantial evidence standard requires only that the BIA's conclusion be based upon the evidence presented, and that the findings be substantially reasonable. Rojas v. INS, 937 F.2d at 189. Thus, the BIA's decision can be reversed only if Iwuala can demonstrate that the evidence he presented was "so compelling that no reasonable factfinder could fail to find" for him. INS v. Elias-Zacarias, 112 S.Ct. at 817.

The record, however, clearly contains "substantial evidence" that Iwuala engaged in conduct which, under 8 U.S.C. §§ 1251(a)(1)(C)(i) & (a)(2)(C) (Supp. 1994), renders him deportable. Iwuala admitted that he ceased being a student soon after he came to the United States in August 1984; inasmuch as this was a condition to his nonimmigrant status, this admission rendered him deportable under section 1251(a)(1)(C)(i). See Shoja v. INS, 679 F.2d 447, 450 (5th Cir. 1982). Further, the INS presented clear proof that Iwuala was convicted of possessing a firearm, further rendering him deportable under section 1251(a)(2)(C). At the hearing before the IJ, Iwuala attempted to diminish the effect of this conviction by pointing out that he made a plea of nolo contendere.[3] Iwuala's plea, however, does not negate the fact of conviction. See Yazdchi v. INS, 878 F.2d 166, 167 (5th Cir. 1989). Therefore, the order of the BIA is supported by substantial evidence and should be upheld.

III

For the foregoing reasons, the judgment is

A F F I R M E D.

[3]Iwuala also makes vague references to civil rights litigation that is or was pending in federal court and may have something to do with this conviction. His conviction and sentence, however, are final in that there is no direct appeal pending and the time for appeal has expired. See Okabe v. I.N.S., 671 F.2d 863, 865 (5th Cir. 1982).