UNITED STATES COURT OF APPEALS
for the Fifth Circuit

No. 93-5070
Summary Calendar

ALFRED FRIDAY JOHNSON,

Petitioner,

VERSUS

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

Petition for Review of an Order
of the Immigration and Naturalization Service
(A26 510 727)

(March 23, 1994)

Before DAVIS, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:[1]

BACKGROUND

Petitioner Alfred Friday Johnson, a Liberian national, became a permanent resident of the United States in 1985. In 1992, after entering a plea of nolo contendere, he was convicted of delivery of cocaine. As a result of his conviction, the Immigration and Naturalization Service initiated deportation proceedings against him. The immigration judge found Petitioner deportable under 8 U.S.C. §§ 1251(a)(2)(B)(i) and 1251(a)(2)(A)(iii) and denied

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Petitioner's request for relief from deportation under § 212(c) of the Immigration and Nationality Act, 8 U.S.C. § 1182(c). The Board of Immigration Appeals affirmed. Petitioner appeals the Board's decision.

DISCUSSION

I.

Petitioner contends that the Board erred in finding him deportable. He argues that, because his conviction resulted from a nolo contendere plea, the conviction cannot be a ground for deportation. We rejected this argument in Qureshi v. INS, 519 F.2d 1174, 1176 (5th Cir. 1975), reasoning that the plea is inconsequential because the deportation statute is triggered by the "fact of conviction." See also Yazdchi v. INS, 878 F.2d 166, 167 (5th Cir.)(per curiam), cert. denied, 493 U.S. 978 (1989).

Referring to 8 U.S.C. § 1251(a)(2)(A)(i), Petitioner also argues that the deportation section does not apply to him. Petitioner's argument is of no moment. The Board found Petitioner deportable under § 1251(a)(2)(B)(i) and § 1251(a)(2)(A)(iii), not § 1251(a)(2)(A)(i), and those sections unquestionably apply to this case. Therefore, the Board properly found Petitioner deportable.

II.

Next, Petitioner argues that the Board abused its discretion in denying him relief from deportation under § 212(c). An alien requesting § 212(c) relief bears the burden of demonstrating that his application merits favorable consideration. Villarreal-San Miguel v. INS, 975 F.2d 248, 250 (5th Cir. 1992). The Board then

balances the favorable considerations with the alien's undesirability as a permanent resident. Diaz-Resendez v. INS, 960 F.2d 493, 495-96 (citing In Matter of Marin, 16 I&N Dec. 581 (BIA 1978)). Additionally, aliens who have been convicted of serious drug offenses must produce evidence of unusual or outstanding equities. Id. at 496.

We review the Board's denial of a petition for § 212(c) relief for abuse of discretion. Id. at 495 (citing Foti v. INS, 373 U.S. 217 (1963)). Under this standard, the Board's decision will be upheld unless it was "arbitrary, irrational, or contrary to law." Id. Accordingly, our review is "exceedingly narrow" and "severely limited." Ashby v. INS, 961 F.2d 555, 557 (5th Cir. 1992). Having reviewed the administrative record, we are convinced that the Board did not abuse its discretion in denying § 212(c) relief.

III.

Finally, Petitioner contends that he his entitled to asylum under 8 U.S.C. § 1101(a)(42)(A). Petitioner, however, did not file an application for asylum. Nor did he raise this issue in his appeal to the Board. This failure to exhaust his administrative remedies precludes us from considering his argument. See Townsend v. INS, 799 F.2d 179, 182 (5th Cir. 1986) (per curiam).

CONCLUSION

For the foregoing reasons, the decision of the Board is AFFIRMED.