UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 94-40433
Summary Calendar

ALFRED TAIWO,

Petitioner,

versus

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

Petition for Review of an Order of
the Board of Immigration Appeals

(A91 198 281)

(October 26, 1994)

Before POLITZ, Chief Judge, JOLLY and BENAVIDES, Circuit Judges.

PER CURIAM:[*]

Alfred Taiwo petitions for review of the decision of the Board of Immigration Appeals rejecting his appeal of the order of the immigration judge finding him deportable under section

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

241(A)(2)(A)(ii) of the Immigration and Nationality Act.[1] Concluding that we lack authority to hear this matter, the petition for review must be dismissed.

Background

Taiwo, a native and citizen of Nigeria, entered the United States as a student in September 1976. He became a lawful permanent resident in February 1990. In March 1992 the INS instituted deportation proceedings based on Taiwo's two theft convictions.[2] The IJ found Taiwo deportable as charged by the INS and ineligible for any relief from the deportation order.

In his appeal to the BIA Taiwo raised, *inter alia*, the claim that the IJ erred in precluding him from applying for relief from deportation under section 212(c) of the INA.[3] Section 212(c) authorizes the Attorney General to waive deportation for aliens with seven consecutive years of lawful unrelinquished domicile in the United States. In support of his claim Taiwo asserted that he had been a resident of the United States since 1976. The BIA rejected this argument, finding that Taiwo was not granted lawful permanent resident status until 1990 and thus did not meet the requirements of section 212(c). The BIA rejected Taiwo's other claims and he timely petitioned for review.

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[1]8 U.S.C. § 1251(a)(2)(A)(ii).

[2]Section 241(a)(2)(A)(ii) of the INA, 8 U.S.C. § 1251(a)(2)(A)(ii), allows deportation of any alien convicted of two or more crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct.

[3]8 U.S.C. § 1182(c).

Analysis

Taiwo now contends that the IJ and BIA erred in denying him relief from deportation, maintaining that he qualifies for releif under section 212(c) because he became lawfully domiciled in the United States under color of law in 1986, when Congress enacted the Immigration Reform and Control Act[4] which permitted aliens to regularize their status and prevented certain deportations.

Taiwo did not raise this issue before the BIA. In **Yahkpua v. INS**,[5] we held that 8 U.S.C. § 1105a(c) precludes judicial review of issues that were not first presented to the BIA.[6] Lacking authority to review an unexhausted issue, the petition for review must be DISMISSED.

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[4]Pub. L. No. 99-603, § 201(a)-(e), 100 Stat. 3359, 3394-99 (1986) (codified as amended in scattered sections of 8 U.S.C.).

[5]770 F.2d 1317 (5th Cir. 1985).

[6]8 U.S.C. § 1105a(c) provides in pertinent part: "An order of deportation or of . . . exclusion shall not be reviewed by any court if the alien has not exhausted the administrative remedies available to him as of right under the immigration laws and regulations."