

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 94-40461  
Summary Calendar

---

Neville Hay,

Petitioner,

versus

Immigration and Naturalization Service,

Respondent.

---

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

(A34-060-075)

(December 14, 1994)

---

Before SMITH, EMILIO M. GARZA, and PARKER, Circuit Judges.

PER CURIAM:\*

Petitioner, Neville Hay appeals the Board of Immigration Appeals' (BIA) decision denying his application for waiver of inadmissibility under § 212(c) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1182(c).

Section 212(c) provides discretionary relief from deportation to permanent resident aliens who have accrued seven consecutive

---

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

years of unrelinquished lawful domicile. *Ashby v. INS*, 961 F.2d 555, 557 (5th Cir. 1992). The BIA's denial of § 212(c) relief is reviewed for abuse of discretion. *Villarreal-San Miguel v. INS*, 975 F.2d 248, 250 (5th Cir. 1992). Findings of fact, including credibility determinations, are reviewed to determine whether they are supported by substantial evidence. *Diaz-Resendez v. INS*, 960 F.2d 493, 495 (5th Cir. 1992).

Hay, a 45-year-old citizen of Jamaica, was charged with deportability under § 241 of the INA based on his November 25, 1987 conviction for misdemeanor possession of marijuana.

Hay first contends that the BIA's finding that he lacked credibility was not supported by substantial evidence. In support of its adverse credibility finding the BIA cited several significant discrepancies in Hay's testimony. For example, he testified that he had no relatives living in Jamaica, but his wife testified that he had two grown daughters, and a sister living in Jamaica. Further, when questioned about his criminal history he initially left out significant portions of that history, which he later admitted on cross examination. The BIA also noted the lack of corroborating evidence of his testimony concerning his financial support of his children, and his income. We hold that the BIA's finding that Hay lacked credibility was supported by substantial evidence.

Hay next argues that the BIA abused its discretion in denying his § 212(c) waiver request. The BIA, in a *de novo* review, fully considered and assessed Hay's relevant equities, favorable factors, and evidence of alleged rehabilitation. The BIA weighed these

factors against the adverse factor of Hay's cumulative criminal record and reasonably exercised its discretion in determining that he did not merit a § 212(c) waiver. Hay's lengthy residency in this country and his familial relationships were diminished by his criminal history during this period, the lack of evidence about his relationship to his children, and the minimal evidence of rehabilitation.

Finding no abuse of discretion by the BIA, we AFFIRM.