

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-60485  
Summary Calendar

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JORGE GUADALUPE ELIZONDO,

Plaintiff-Appellant,

versus

IMMIGRATION AND NATURALIZATION SERVICE,

Defendant-Appellee.

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Petition for Review of an Order of the  
Board of Immigration Appeals  
A36 596 086

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March 21, 1996

Before DAVIS, BARKSDALE, and DeMOSS, Circuit Judges.

PER CURIAM:\*

Jorge Guadalupe Elizondo-Chapa asserts that the Board of Immigration Appeals (BIA) abused its discretion in denying his motion to reconsider and reopen the denial of his application for waiver of deportability; 8 U.S.C. § 1182(c). Elizondo contends that the BIA erred in giving deferential review to the Immigration Judges's (IJ) credibility determinations, rather than conducting a *de novo* review of the record. Elizondo contends that the proceedings should be reopened to present evidence that

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

his testimony was credible and that he is genuinely rehabilitated.

The BIA conducted an independent review of the record, balanced the equities, and concluded that Elizondo's many outstanding equities were outweighed by his criminal record and the evidence indicating a lack of genuine rehabilitation. See *Osuchukwu v. I.N.S.*, 744 F.2d 1136, 1141 (5th Cir. 1984)(holding that the BIA's denial of a motion to reconsider is reviewed for abuse of discretion). The BIA will not grant a motion to reopen to consider a § 212(c) application because an alien under a final deportation order loses his lawful permanent resident status and is thus no longer eligible for relief because he lacks the required seven years consecutive, unrelinquished domicile. *Rivera v. I.N.S.*, 810 F.2d 540, 541-42 (5th Cir. 1987); *Ghassan v. I.N.S.*, 972 F.2d 631, 635 (5th Cir.), *cert. denied*, 113 S. Ct. 1412 (1992).

The petition for review is DENIED.