

October 1, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-60867
Summary Calendar

EMILIO RIVERA-VEGA,

Petitioner,

versus

JOHN ASHCROFT, U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A42 343 100

Before HIGGINBOTHAM, DAVIS, and WIENER, Circuit Judges.

PER CURIAM:*

Emilio Rivera-Vega (Rivera) petitions this court for review of a decision by the Board of Immigration Appeals (BIA) affirming an order of the Immigration Judge (IJ) denying Rivera's application for cancellation of removal pursuant to 8 U.S.C. § 1229b(a). Rivera concedes that the IJ's decision was not based on non-discretionary statutory factors but solely on the IJ's discretionary determination that relief was not warranted in Rivera's case. See In re C-V-T, 22 I. & N. Dec. 7, 7 (BIA 1998);

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Matter of Marin, 16 I. & N. Dec. 581, 584-85 (BIA 1978). Because the decision to cancel removal was subject to the discretion of the Attorney General, this court lacks jurisdiction to review the merits of Rivera's petition. 8 U.S.C. §§ 1229b, 1252(a)(2)(B). Accordingly, the petition for review is DISMISSED.