

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-5168

Summary Calendar

OLAYINKA OLASENI SOBAMOWO,

Plaintiff-Appellant,

versus

JOHN B.Z. CAPLINGER,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Louisiana
92 CV 0841 LC

(June 17, 1993)

Before HIGGINBOTHAM, SMITH, and DeMOSS, Circuit Judges.

PER CURIAM:*

Olayinka Olaseni Sobamowo, a Nigerian citizen, entered the United States in September 1986 as a nonimmigrant visitor. In 1987, he was convicted of conspiracy to distribute and to possess with intent to distribute heroin, 21 U.S.C. § 846. The judgment was affirmed on direct appeal. United States v. Sobamowo, 892 F.2d 90 (D.C. Cir. 1989), cert. denied, 111 S.Ct. 2811 (1991). As a

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

result, he was ordered to be deported. This court recently affirmed the dismissal of his appeal by the Board of Immigration Appeals. Sobamowo v. INS, No. 92-4508 (5th Cir., Dec. 15, 1992) (unpublished).

Sobamowo filed in district court a petition for habeas, declaratory, and injunctive relief, the basis for this appeal. He alleged that for several reasons he is entitled to a stay of deportation. The magistrate judge filed a report recommending denial of habeas relief for failure to exhaust appellate remedies (his appeal from the BIA decision) and denied the stay application on grounds of lack of subject-matter jurisdiction. The district court agreed and so do we. The dismissal for failure to exhaust remedies and denial of stay is AFFIRMED.