

UNPUBLISHED

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

JOSEPH MOUTCHE,

*Petitioner,*

v.

JOHN ASHCROFT, Attorney General,

*Respondent.*

No. 03-1324

On Petition for Review of an Order  
of the Board of Immigration Appeals.  
(A79-494-346)

Submitted: October 9, 2003

Decided: October 23, 2003

Before LUTTIG, KING, and DUNCAN, Circuit Judges.

---

Petition denied by unpublished per curiam opinion.

---

**COUNSEL**

Ronald D. Richey, RONALD D. RICHEY & ASSOCIATES, Rockville, Maryland, for Petitioner. Peter D. Keisler, Assistant Attorney General, David V. Bernal, Assistant Director, Jennifer Paisner, Office of Immigration Litigation, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

---

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

**OPINION**

## PER CURIAM

Joseph Moutche petitions for review of an order of the Board of Immigration Appeals ("Board") finding that he failed to establish exceptional circumstances warranting the immigration judge to reopen the removal proceedings. Moutche contends that 1) the Board's determination that he did not establish "exceptional circumstances" justifying reopening of his removal hearing was an abuse of discretion; and 2) that the ineffective assistance of counsel rendered by his prior attorney constituted exceptional circumstances. Finding no reversible error, we deny the petition for review.

This Court's review of the Board's denial of a motion to reopen is extremely deferential, and the decision will not be reversed absent abuse of discretion. *Stewart v. INS*, 181 F.3d 587, 595 (4th Cir. 1999). Motions to reopen are disfavored. *INS v. Doherty*, 502 U.S. 314, 323 (1992); 8 C.F.R. § 1003.2(c) (2003). We find the Board did not abuse its discretion in finding that Moutche failed to establish exceptional circumstances warranting granting a motion to reopen. *See* 8 U.S.C. § 1229a(b)(5)(C)(i), (e)(1) (2000). Moutche contends for the first time on appeal that ineffective assistance of counsel was the exceptional circumstance warranting reopening of the removal proceedings. Because Moutche failed to make a claim of ineffective assistance of counsel to the Board, this Court cannot consider the claim. *Stewart*, 181 F.3d at 595. Accordingly, we deny the petition for review. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

*PETITION DENIED*