

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-1964

CONSTANTIN RUSU,

Petitioner,

versus

JOHN ASHCROFT, Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals. (A70-278-077)

Submitted: March 5, 2004

Decided: April 14, 2004

Before WIDENER, LUTTIG, and KING, Circuit Judges.

Petition denied by unpublished per curiam opinion.

E. Marie Tucker Diveley, Michael J. Begland, HUNTON & WILLIAMS, Richmond, Virginia, for Petitioner. Peter D. Keisler, Assistant Attorney General, Mark C. Walters, Assistant Director, Jennifer L. Lightbody, 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Unpublished opinions are not binding precedent in this circuit.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).

PER CURIAM:

Constantin Rusu, a native and citizen of Romania, petitions for review of an order of the Board of Immigration Appeals ("Board") denying his motion to reopen. We deny the petition for review.

We review the Board's denial of a motion to reopen or a motion to reconsider with extreme deference and only for an abuse of discretion. 8 C.F.R. § 1003.2(a) (2003); INS v. Doherty, 502 U.S. 314, 323-24 (1992); Stewart v. INS, 181 F.3d 587, 595 (4th Cir. 1999). Such motions are especially disfavored "in a deportation proceeding, where, as a general matter, every delay works to the advantage of the deportable alien who wishes merely to remain in the United States." Doherty, 502 U.S. at 323.

"A motion to reopen proceedings shall not be granted unless it appears to the Board that evidence sought to be offered is material and was not available and could not have been discovered or presented at the former hearing." 8 C.F.R. § 1003.2(c)(1) (2003).

We find the Board did not abuse its discretion in finding that Rusu's due process challenges were conclusively addressed and disposed of by this court in Rusu v. INS, 296 F.3d 316 (4th Cir. 2002). In addition, the Board did not abuse its discretion in finding that Rusu failed to provide new evidence showing a well-

founded fear of persecution or entitlement to asylum under Matter of Chen, 20 I. & N. Dec. 16 (BIA 1989).

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