

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-2194

NSHO JACKSON AKAI, a/k/a Nsoh Jackson Akai,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals.

Submitted: January 14, 2009

Decided: January 28, 2009

Before WILKINSON, MOTZ, and TRAXLER, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Nsho Jackson Akai, Petitioner Pro Se. Daniel Eric Goldman, Senior Litigation Counsel, Kristin Kay Edison, M. Jocelyn Lopez Wright, UNITED STATES DEPARTMENT OF JUSTICE, Office of Immigration Litigation, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Nsho Jackson Akai, a native and citizen of Nigeria, petitions for review of an order of the Board of Immigration Appeals ("Board") affirming an order of the immigration judge denying Akai's second motion to reopen as numerically barred. We have reviewed the record and the Board's order and find that the Board did not abuse its discretion in denying the motion. See 8 C.F.R. § 1003.2(a) (2008). The Board properly rejected Akai's claim that his first motion to reopen was impaired by the ineffective assistance of his counsel, finding that Akai failed to comply with the requirements of Matter of Lozada, 19 I. & N. Dec. 637 (B.I.A. 1988). We further find this claim foreclosed in light of our recent holding in Afanwi v. Mukasey, 526 F.3d 788, 796-99 (4th Cir. 2008) (holding there is no Fifth Amendment right to effective assistance of counsel in removal proceedings). 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