

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-1244

FABRICE K. SADHVANI,

Petitioner,

versus

PETER D. KEISLER, Acting United States
Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration
Appeals. (A75-342-382)

Submitted: September 28, 2007

Decided: October 12, 2007

Before MOTZ and GREGORY, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Petition granted and remanded by unpublished per curiam opinion.

Paul Shearman Allen, PAUL SHEARMAN ALLEN & ASSOCIATES, Washington,
D.C.; Joseph Peter Drennan, Alexandria, Virginia, for Petitioner.
Victor M. Lawrence, Senior Litigation Counsel, John P. Devaney,
Office of Immigration Litigation, UNITED STATES DEPARTMENT OF
JUSTICE, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Fabrice K. Sadhvani, a native and citizen of Togo, petitions for review of an order of the Board of Immigration Appeals ("Board") vacating its previous grant of Sadhvani's motion to reopen and considering the motion as withdrawn in light of his removal from the United States. In rendering its decision, the Board relied on 8 C.F.R. § 1003.2(d) (2007), which provides that "[a]ny departure from the United States, including the deportation or removal of a person who is the subject of exclusion, deportation, or removal proceedings, occurring after the filing of a motion to reopen or a motion to reconsider, shall constitute a withdrawal of such motion."

We recently found this regulation to be invalid in William v. Gonzales, __ F.3d __, 2007 WL 2494763 (4th Cir. Sept. 6, 2007). Accordingly, we grant the petition for review and remand to the Board for further proceedings in light of our holding in William. We grant Sadhvani's motion to proceed in forma pauperis on appeal. 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 GRANTED AND REMANDED