

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-2197

YOUSSOUF DIOUBATE,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney General,

Respondent.

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

Submitted: September 19, 2008

Decided: October 15, 2008

Before MOTZ, TRAXLER, and KING, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Fatai A. Suleman, AMITY, KUM & SULEMAN, P.A., Greenbelt, Maryland, for Petitioner. Gregory G. Katsas, Acting Assistant Attorney General, Michelle Gorden Latour, Assistant Director, Jessica E. Sherman, 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Unpublished opinions are not binding precedent in this circuit.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:

Youssouf Dioubate, a native and citizen of Guinea, petitions for review of an order of the Board of Immigration Appeals ("Board") denying his second motion to reopen as untimely and 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). To the extent that Dioubate claims that the time limitation should have been equitably tolled on the ground that he received ineffective assistance of counsel, we find this claim foreclosed in light of our recent holding in Afanwi v. Mukasey, 526 F.3d 788, 796-99 (4th Cir. 2008) (holding that there is no constitutional right under the Fifth Amendment to effective assistance of counsel in removal proceedings). Accordingly, we deny the petition for review. We deny Dioubate's motion for leave to file supplemental materials. 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