

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-60512
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
November 20, 2017
Lyle W. Cayce
Clerk

SEALED PETITIONER,

Petitioner

v.

JEFFERSON B. SESSIONS, III, U. S. ATTORNEY GENERAL,

Respondent

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A089 382 147

Before DENNIS, SOUTHWICK, and HIGGINSON, Circuit Judges.

PER CURIAM:*

We lack jurisdiction to consider the two issues Petitioner raises on appeal. First, he contends that the Board of Immigration Appeals failed to apply the “clearly erroneous” standard of review and instead “rejected the [immigration judge’s] record-based findings in favor of [the Board’s] own assessment of the evidence.” But this issue is outside our jurisdiction because Petitioner

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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never presented it to the Board. *See Omari v. Holder*, 562 F.3d 314, 319–21 (5th Cir. 2009). Second, Petitioner contends that the Board made erroneous factual findings. But he is removable for having committed crimes covered by 8 U.S.C. § 1227(a)(2)(A)(iii) and (B)(i), depriving us of jurisdiction to review issues of fact. *See* 8 U.S.C. § 1252(a)(2)(C),(D). Although Petitioner is correct that that we may review whether the facts found are legally sufficient to warrant relief, *see, e.g., Alvarado de Rodriguez v. Holder*, 585 F.3d 227, 234 (5th Cir. 2009); *Matter of Z-Z-O*, 26 I. & N. Dec. 586, 590–91 (BIA 2015), that is not the nature of his appeal. Rather, he complains that he “presented substantial, credible, and unchallenged evidence” contradicting the Board’s findings. That is squarely an issue of fact. *See, e.g., Escudero-Arciniega v. Holder*, 702 F.3d 781, 785 (5th Cir. 2012); *Morka v. Holder*, 554 F. App’x 342, 343 (5th Cir. 2014).

It is therefore ORDERED that Respondent’s opposed motion to dismiss the petition for review for lack of jurisdiction is GRANTED.