

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 07-1815

C. ANTHONY EASY,
Appellant

v.

ATTORNEY GENERAL USA;
DORIS MEISSNER, COMMISSIONER OF
IMMIGRATION AND NATURALIZATION SERVICES;
IMMIGRATION & NATURALIZATION SERVICE;
DEPARTMENT OF JUSTICE;
J. SCOTT BLACKMAN, ACTING DISTRICT DIRECTOR

On Appeal From the United States District Court
For the Eastern District of Pennsylvania
(D.C. Civ. No. 97-cv-06572)
District Judge: Honorable Lowell A. Reed, Jr.

Submitted For Possible Dismissal Pursuant to 28 U.S.C. § 1915(e)(2)(B)
or Summary Action Under Third Circuit L.A.R. 27.4 and I.O.P. 10.6.
September 27, 2007

Before: BARRY, AMBRO and FISHER, CIRCUIT JUDGES

(Filed: October 15, 2007)

OPINION

PER CURIAM.

Appellant, C. Anthony Easy, is a Jamaican national who entered the United States in 1977 at the age of 18. He was placed in deportation proceedings in 1995 and, in September 1997, the Board of Immigration Appeals entered a final order of removal.¹ The next month, Easy filed a petition pursuant to 28 U.S.C. § 2241 in District Court seeking an order directing an Immigration Judge to consider his application for relief under 8 U.S.C. § 1182(c). In February 1998, however, the District Court granted Easy's motion to voluntarily withdraw his § 2241 petition. He was removed from the United States shortly thereafter.

In November 2005, Easy was charged with illegally re-entering the United States in violation of 8 U.S.C. § 1326. In July 2005, while detained on that charge, Easy filed in the District Court a "Petition for Permission to Appeal," seeking to challenge the September 1997 final removal order. The District Court denied the petition and declined to transfer the petition to this Court under 28 U.S.C. § 1631 for filing as a petition for review. Easy appealed.

The REAL ID Act of 2005, which came into effect on May 11, 2005, amended 8 U.S.C. § 1252(a)(2) to eliminate district courts' habeas jurisdiction over challenges to final removal orders. See Francois v. Gonzales, 448 F.3d 645, 647 (3d Cir. 2006). An alien now may seek review of an order of removal only by a petition for review filed in the appropriate court of appeals. See Toussaint v. Attorney General, 455 F.3d 409, 412

¹In 1996, Congress replaced the term "deportation" with "removal." See United States v. Marin-Castaneda, 134 F.3d 551, 554 n.1 (3d Cir. 1998).

n.3 (3d Cir. 2006). Therefore, the District Court properly determined that it lacked jurisdiction over Easy's petition.

The REAL ID Act also directed district courts to transfer to the appropriate court of appeals any habeas petitions then pending which challenged final administrative orders of removal or deportation. Of course, Easy's petition was not pending on the effective date of the REAL ID Act. Nonetheless, the District Court could have transferred the case to this Court if it found that the transfer was "in the interest of justice." 28 U.S.C. § 1631. See Island Insteel Sys. v. Waters, 296 F.3d 200, 218 (3d Cir. 2002) (holding that the determination whether a case should be transferred in the interest of justice "is generally committed to the discretion of the District Court in the first instance."). Because Easy's petition was not timely, however, the District Court was clearly within the bounds of its discretion in refusing to transfer the case. Easy, who voluntarily withdrew his § 2241 petition at a time when such a petition was the proper vehicle for challenging his final order of removal, had 30 days from the date of the effective date of the REAL ID Act to bring his claims. See Kolkevich v. Attorney General, – F.3d –, 2007 WL 2505584, at *13-14 (3d Cir. Sept. 6, 2007). Easy's "Petition for Permission to Appeal" was filed over one year after the effective date of the REAL ID Act. This Court "may not extend the time to file" a petition for review of an order of an administrative board, such as the Board of Immigration Appeals. Fed. R. App. P. 26(b)(2); Malvoisin v. INS, 268 F.3d 74, 76 (2d Cir. 2001).

For the reasons detailed, this appeal presents us with no substantial question. Accordingly, we will summarily affirm the District Court's order. See Third Circuit LAR 27.4 and I.O.P. 10.6.