

**FILED**

August 17, 2004

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III  
Clerk

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No. 04-60271  
Conference Calendar

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RENE CASTRO-JIMINEZ,

Petitioner-Appellant,

versus

JOHN M. BULGER, Acting Director Immigration and  
Naturalization Service,

Respondent-Appellee.

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Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 5:03-CV-464-BRSU  
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Before HIGGINBOTHAM, DAVIS, and PICKERING, Circuit Judges.

PER CURIAM:\*

Rene Castro-Jiminez, federal prisoner # 90503-000, appeals the denial of his 28 U.S.C. § 2241 petition challenging his continued immigration detention. Castro, an inadmissible Mariel Cuban, argues pursuant to Zadvydas v. Davis, 533 U.S. 678 (2001), that his continued detention is violative of his constitutional rights.

Castro's claim is foreclosed by Gisbert v. U.S. Atty. Gen., 988 F.2d 1437, 1442 (5th Cir.), amended by, Gisbert v. U.S. Atty.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Gen., 997 F.2d 1122 (5th Cir. 1993). See Rios v. INS, 324 F.3d 296, 297 (5th Cir. 2003). Therefore, the district court did not err in denying his 28 U.S.C. § 2241 petition.

Castro's request that his appeal be stayed pending the Supreme Court's decision in Benitez v. Wallis, 337 F.3d 1289 (11th Cir. 2003), cert. granted, 124 S. Ct. 1143 (U.S. Jan. 16, 2004) (No. 03-7434), is denied. Despite the grant of certiorari, we continue to follow our own binding precedent. See Wicker v. McCotter, 798 F.2d 155, 157-58 (5th Cir. 1986). Castro's request for appointment of counsel is similarly denied.

AFFIRMED; MOTIONS FOR STAY OF APPEAL AND APPOINTMENT OF COUNSEL DENIED.