

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-10437
Summary Calendar

ANTONIO RODRIGUEZ,

Petitioner-Appellant,

versus

JOHN ASHCROFT, U.S. ATTORNEY GENERAL; ANNE ESTRADA,
District Director, Immigration & Naturalization Service,

Respondents-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
(3:01-CV-1855-R)

January 20, 2003

Before DAVIS, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Petitioner-Appellant Antonio Rodriguez, an alien, appeals the district court's denial of his 28 U.S.C. § 2241 petition for writ of habeas corpus challenging his deportation order. The transitional rules of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) govern his case. See Rodriguez-Silva v. INS, 242 F.3d 243, 246 (5th Cir. 2001).

Rodriguez was deported after the district court denied his petition. Statutory provisions governing transitional rules cases

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

specify that orders of deportation shall not be reviewed after an alien has left the United States. 8 U.S.C. 1105a(c) (1994); Lara v. Trominski, 216 F.3d 487, 491-92 (5th Cir. 2000) (interpreting applicable statute in a transitional rule case); see Quezada v. INS, 898 F.2d 474, 476 (5th Cir. 1990), and Umanzor v. Lambert, 782 F.2d 1299, 1302 (5th Cir. 1986).

Although we indicated in Lara that jurisdiction might exist despite that statutory bar if a person like Rodriguez could demonstrate that his prior deportation involved a gross miscarriage of justice, Lara, 216 F.3d at 493, Rodriguez does not argue that his deportation constituted such a miscarriage; and indeed it did not. Notably, he was not eligible for relief under the statute on which he relies because he was never lawfully admitted for permanent residence in the United States. 8 U.S.C. § 1182(c) (1995); see Fedorenko v. United States, 449 U.S. 490, 514-16 (1981), and Matter of Longstaff, 716 F.2d 1439, 1441 (5th Cir. 1983). We therefore lack jurisdiction to hear his appeal and must dismiss it.

DISMISSED.