

April 22, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-60470
Summary Calendar

ANTONINO LOPEZ-BAUTISTA, also known as,
FLORENCIO HERNANDEZ-SANCHEZ,

Petitioner,

versus

ALBERTO R. GONZALEZ, U.S. ATTORNEY GENERAL,

Respondent.

Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A76 805 801

Before REAVLEY, JOLLY and HIGGINBOTHAM, Circuit Judges.

PER CURIAM:*

Antonio Lopez-Bautista, a/k/a Florencio Hernandez-Sanchez, petitions for review of the decision of the Board of Immigration Appeals (BIA) denying his motion to reopen his immigration proceedings. Lopez-Bautista does not challenge the BIA's ruling that the motion to reopen was untimely or that it lacked jurisdiction to act on the motion pursuant to 8 C.F.R.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

§§ 1003.23(b) and 1003.2(d) in light of his departure from the United States. He has therefore waived these issues. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir.1993).

Lopez-Bautista instead argues that his motion to reopen should have been granted because the April 1, 1998, removal order was improvidently granted. Because Lopez-Bautista did not raise this argument before the BIA, we lack jurisdiction to review it. Wang v. Ashcroft, 260 F.3d 448, 452 (5th Cir. 2001). Given the foregoing, the petition for review is DISMISSED IN PART FOR LACK OF JURISDICTION AND DENIED IN PART.