

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

United States Court of Appeals
Fifth Circuit

FILED

April 22, 2013

Lyle W. Cayce
Clerk

No. 12-50991

Summary Calendar

GUSTAVO ALVAREZ-FRAYIER,

Petitioner-Appellant

v.

UNITED STATES OF AMERICA; WARDEN, RCDC III; BUREAU OF
PRISONS; GEO GROUP,

Respondents-Appellees

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:12-CV-33

Before HIGGINBOTHAM, OWEN, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Gustavo Alvarez-Frayier, federal prisoner # 73786-280, an alien against whom the Bureau of Immigration and Customs Enforcement has issued a detainer subjecting him to immediate removal from the United States upon release from Bureau of Prisons (BOP) custody, moves this court to proceed in forma pauperis (IFP) to appeal the denial of his 28 U.S.C. § 2241 petition challenging the BOP's exclusion of him from rehabilitation programs and

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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halfway houses. His arguments are foreclosed by this court's decision in *Gallegos-Hernandez v. United States*, 688 F.3d 190, 192-93 (5th Cir.), *cert. denied*, 133 S. Ct. 561 (2012).

Accordingly, Alvarez-Frayier's motion to proceed IFP is DENIED, and his appeal is DISMISSED as frivolous. *See* 5TH CIR. R. 42.2.