

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-5291
Summary Calendar

MIGUEL GONZALEZ-ROSILLO,

Petitioner,

versus

IMMIGRATION AND NATURALIZATION
SERVICE,

Respondent.

Petition for Review of an Order of the
Immigration and Naturalization Service

(A38 884 993)

June 25, 1993

Before POLITZ, Chief Judge, HIGGINBOTHAM and WIENER, Circuit
Judges.

PER CURIAM:*

Miguel Gonzalez-Rosillo was convicted of aiding the illegal
entry of three immigrants.¹ The Immigration and Naturalization
Service commenced deportation proceedings, charging that within

*Local Rule 47.5 provides: "The publication of opinions that
have no precedential value and merely decide particular cases on
the basis of well-settled principles of law imposes needless
expense on the public and burdens on the legal profession."
Pursuant to that Rule, the Court has determined that this opinion
should not be published.

¹ 8 U.S.C. § 1325, 18 U.S.C. § 2.

five years of his own entry, Gonzalez-Rosillo had smuggled immigrants into the United States for gain.² An immigration judge conducted a hearing, which Gonzalez-Rosillo did not attend, and ordered deportation. The Board of Immigration Appeals affirmed. The instant petition for review timely followed.

The only issue which Gonzalez-Rosillo preserved for review is whether the INS presented sufficient admissible evidence to prove that he had engaged in smuggling for gain. Although the rules of evidence do not govern deportation proceedings, those proceedings must comport with due process standards of fundamental fairness, including, as relevant herein, the right to cross-examination.³ At Gonzales-Rosillo's hearing the INS presented the live testimony of Cruz Rodriguez, the border patrol agent who had processed Gonzalez-Rosillo upon his arrest. Rodriguez identified the investigative report and the Form I-213 prepared in conjunction with the arrest. These documents included a statement from Gonzalez-Rosillo in which he admitted to charging one of the immigrants \$200 and the others \$300. Rodriguez affirmed that the contents of the documents were true and correct and he was subjected to cross-examination thereon. Under these circumstances, the admission of the documents complied with the requisites of due

² 8 U.S.C. § 1251(a)(13) (Law. Co-op. 1987). The Immigration and Nationality Act subsequently was amended to eliminate the "for gain" element of this ground for deportability. See 8 U.S.C. § 1251(a)(1)(E)(i) (Supp. 1993).

³ 8 U.S.C. § 1252(b)(3); **Bustos-Torres v. INS**, 898 F.2d 1053 (5th Cir. 1990).

process.⁴ The order of deportation is supported by reasonable, substantial, and probative evidence.⁵

Gonzalez-Rosillo also complains of a change in venue of his hearing and the Immigration Judge's refusal to continue the hearing in his absence.⁶ He did not present these issues to the BIA; we may not consider them.⁷

The petition for review is DENIED.

⁴ See **Bustos-Torres**.

⁵ **Hernandez-Garza v. INS**, 882 F.2d 945 (5th Cir. 1989).

⁶ His legal representative was present.

⁷ **Pierre v. INS**, 932 F.2d 418 (5th Cir. 1991).