

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-50226
Conference Calendar

LORENZO SANCHEZ-OJEDA,

Petitioner-Appellant,

versus

A.H. GUIGNI,

Respondent-Appellee.

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Appeal from the United States District Court
for the Western District of Texas
USDC No. 94-CV-95

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(November 15, 1994)

Before JONES, DUHÉ, and PARKER, Circuit Judges.

PER CURIAM:*

An order of deportation shall not be reviewed by any court if the alien has not exhausted all available administrative remedies or has departed from the United States after the issuance of the order. 8 U.S.C. § 1105a(c). Exhaustion of administrative remedies is not required if these remedies are inadequate. Ramirez-Osorio v. INS, 745 F.2d 937, 939 (5th Cir. 1987). No petition for habeas corpus will be entertained if the validity of the order has been previously determined in any civil proceeding, unless the petition presents grounds which could not

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

have been presented in such prior proceeding or the court finds that the remedy provided by such prior proceeding was inadequate to test the validity of the order. § 1105a(c).

Sanchez argues that the 1990 deportation proceedings denied him due process and his right to counsel and thus should be reviewed by this Court because he represented himself while mentally incompetent.

The command of § 1105a(c) precluding review of a deportation order after the alien has been deported is unequivocal and applies to departure effected unlawfully or under any error or procedural defect. Quezada v. I.N.S., 898 F.2d 474, 476 (5th Cir. 1990); see also, Cipriano v. INS, 24 F.3d 763, 764 (5th Cir. 1994). The district court could not review the 1990 deportation order because Sanchez was deported pursuant to this order in 1992. See Quezada, 898 F.2d at 476. Additionally, the district court could not entertain Sanchez' habeas corpus petition challenging the 1990 deportation order because the validity of the order has been previously determined and his petition does not present any grounds for relief that could not have been presented or allege that the remedy was inadequate to test the validity of the order. See § 1105a(c).

Sanchez argues that the 1994 deportation order is reviewable although he failed to exhaust his administrative remedies because the available remedies were inadequate to satisfy his constitutional claims. Sanchez contends that he could not present his claims to the BIA because they challenge the constitutionality of INS procedures relating to safeguards for

mental incompetents, which that agency is without jurisdiction to hear. However, Sanchez' constitutional challenges all focus on the 1990 deportation proceedings, not the 1994 proceedings. By rephrasing his argument, Sanchez again attempts to challenge the 1990 proceedings which are nonreviewable. See Quezada, 898 F.2d at 476; § 1105a(c). Sanchez does not contend that the 1994 proceedings violated his constitutional rights or that they were in any way improper, thus his argument is without merit. The 1994 deportation order is not reviewable by any court because Sanchez did not exhaust his administrative remedies nor did he show that these remedies were inadequate to excuse exhaustion.

AFFIRMED.