

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-31036
Summary Calendar

ARMANDO BATISTA-LEVYA, JR.,

Petitioner-Appellant,

versus

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent-Appellee.

- - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 95-CV-122
- - - - -

April 15, 1996

Before HIGGINBOTHAM, DUHÉ, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:¹

Armando Batista-Levy appeals the denial of his petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, in which he challenged the Board of Immigration Appeals' decision dismissing his appeal from the immigration judge's order of exclusion. Batista-Levy argues that he was denied due process of law at his exclusion hearing due to lack of representation by counsel. An excludable alien is not entitled to appointed counsel at government expense at an exclusion hearing. See 8 U.S.C. § 1362; Prichard-

¹Pursuant to Local Rule 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

Ciriza v. I.N.S., 978 F.2d 219, 222 (5th Cir. 1992). His assertion that the immigration judge violated certain sections of the Immigration Act is not considered for failure to brief it adequately. See Yohey v. Collins, 985 F.2d 222, 225 (5th Cir. 1993).

Batista-Levya also requests appointment of counsel and an evidentiary hearing. The motion for appointment of counsel is DENIED. See Fifth Circuit Plan § 2; Santana v. Chandler, 961 F.2d 514, 516 (5th Cir. 1992). The motion for an evidentiary hearing is DENIED as unnecessary.

AFFIRMED.