

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-40928
Summary Calendar

ARTEMIO ALANIZ GARZA,

Petitioner-Appellant,

versus

E.M. TROMINSKI, District Director,
Immigration and Naturalization
Service; JANET RENO, United States
Attorney General,

Respondents-Appellees.

Appeal from the United States District Court
For the Southern District of Texas
(B-94-CV-31)

September 19, 1996

Before POLITZ, Chief Judge, GARWOOD and BENAVIDES, Circuit Judges.

PER CURIAM:*

Artemio Alaniz-Garza appeals the denial of a habeas petition seeking review

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

of an order of deportation. Alaniz-Garza is not being held in custody and habeas relief is therefore unavailable to him.¹ The Immigration Judge denied a requested waiver of deportability which the Board of Immigration Appeals upheld. Thereafter the appropriate and statutorily prescribed method for seeking judicial review required the filing of a petition with this court within 90 days.² Alaniz-Garza failed to do so. Habeas corpus may not be used as a substitute and the district court did not err in denying relief for lack of jurisdiction.³

The judgment appealed is AFFIRMED.

¹ 8 U.S.C. § 1105a(a)(10); **United States ex rel. Marcello v. Dist. Director of INS**, 634 F.2d 964 (5th Cir.), cert. denied, 452 U.S. 917 (1981).

² 8 U.S.C. § 1105a(a)(1).

³See **Guirquis v. INS**, 993 F.2d 508 (5th Cir. 1993).