

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

February 27, 2008

Charles R. Fulbruge III  
Clerk

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No. 07-60175  
Summary Calendar

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GILBERTO ARAUJO YEPEZ

Petitioner

v.

MICHAEL B MUKASEY, U S ATTORNEY GENERAL

Respondent

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Petition for Review of an Order of the  
Board of Immigration Appeals  
BIA No. A77-402-606

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Before KING, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:\*

Gilberto Araujo Yopez (Yopez) , a citizen of Mexico, petitions this court for review of an order denying his application for adjustment of status to that of lawful permanent resident and ordering his removal to Mexico. The Board of Immigration Appeals (BIA) affirmed the order of the immigration judge (IJ). The respondent moves for summary disposition based on this court's decision in *Mortera-Cruz v. Gonzales*, 409 F.3d 246, 255-56 (5th Cir.), cert. denied, 546 U.S.

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

1031 (2005). In the alternative, the respondent moves to reset the briefing schedule.

Because he was inadmissible pursuant to 8 U.S.C. § 1182(a)(9)(C)(i)(II), the BIA did not act arbitrarily when it determined that Yepez was not eligible for adjustment of status under 8 U.S.C. § 1255(i). *Mortera-Cruz*, 409 F.3d at 255-56. Although Yepez argues that this court should revisit *Mortera-Cruz* in light of decisions from the Ninth and Tenth Circuits that interpret the § 1255 waiver more broadly, one panel of this court cannot overrule a prior panel determination. See *Burge v. Parish of St. Tammany*, 187 F.3d 452, 466 (5th Cir. 1999). Because this court is bound by *Mortera-Cruz*, there is no substantial question as to the outcome of the case, and summary disposition is appropriate. See *NLRB v. Evans Plumbing Co.*, 639 F.2d 291, 292 n.1 (5th Cir. 1981). The petition for review is denied.

MOTION FOR SUMMARY DISPOSITION GRANTED; PETITION FOR REVIEW DENIED; MOTION TO RESET BRIEFING SCHEDULE DENIED AS MOOT.