

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-60248
Summary Calendar

JORGE GUADALUPE ELIZONDO-GARZA,

Petitioner,

versus

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

- - - - -
Petition for Review of an Order of the
Board of Immigration Appeals
BIA No. A36 596 086
- - - - -

August 5, 1999

Before HIGGINBOTHAM, JONES, and DENNIS, Circuit Judges.

PER CURIAM:*

Jorge Guadalupe Elizondo-Garza petitions this court to review the denial of his second motion to reopen his deportation proceeding, wherein he was deemed deportable for having been previously convicted of a drug offense and ineligible for a waiver of deportation. Elizondo's second motion to reopen was denied by the Board of Immigration Appeals (BIA) based upon section 440(d) of the Antiterrorism and Effective Death Penalty Act. Elizondo has also sought habeas relief through a petition

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

filed in the district court, the appeal from which is pending before this court in another case.

This court does not have jurisdiction to review the BIA's denial of Elizondo's motion to reopen. See *Lerma de Garcia v. I.N.S.*, 141 F.3d 215, 216-17 (5th Cir. 1998). The Immigration and Naturalization Service's motion to dismiss for lack of jurisdiction is therefore GRANTED, and Elizondo's petition for review of that decision is accordingly DISMISSED.

Elizondo's request in his brief to stay the review of his petition challenging the BIA's denial of his second motion to reopen his deportation proceeding is DENIED.