

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-10227

EMILYN PROCTOR,

Petitioner-Appellant,

VERSUS

IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE,
UNITED STATES OF AMERICA; WILLIAM HARRINGTON, ACTING DIRECTOR OF
THE DALLAS DISTRICT OF THE IMMIGRATION AND NATURALIZATION
SERVICE; AND JANET RENO, ATTORNEY GENERAL OF THE UNITED STATES,

Respondents-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
(3:98-CV-2770-D)

August 19, 1999

Before REYNALDO G. GARZA, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:*

Petitioner filed a writ of habeas corpus in the district court to challenge her deportation order on grounds that the BIA's denial of her motion to re-open her deportation proceeding deprived her of due process. Petitioner argued to the district court that because she was under a deportation order she met the "in custody" requirement to file a petition for habeas corpus. We agree with the district court that the outstanding deportation order against Proctor did not render her "in custody." The district court correctly dismissed the petition for lack of jurisdiction. See

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Maleng v. Cook, 490 U.S. 488, 109 S. Ct. 1923, 104 L. Ed. 2d 540
(1989); Marcello v. INS, 634 F.2d 964 (5th Cir. 1981).