

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

March 11, 2013

No. 12-50910
Summary Calendar

Lyle W. Cayce
Clerk

SERGIO FRIAS,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA; BUREAU OF PRISONS; GEO GROUP;
WARDEN, Reeves County Detention Center III; ERIC H. HOLDER, JR., U.S.
Attorney General,

Respondents-Appellees.

Appeal from the United States District Court
for the Western District of Texas
No. 4:11-CV-92

Before SMITH, PRADO, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Sergio Frias, federal prisoner # 38201-044, an illegal alien against whom

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 12-50910

the Bureau of Immigration and Customs Enforcement has issued a detainer subjecting him to immediate removal from the United States upon release from Bureau of Prisons (“BOP”) custody, moves to proceed *in forma pauperis* (“IFP”) to appeal the denial of his 28 U.S.C. § 2241 petition challenging the BOP’s exclusion of him from rehabilitation programs and halfway houses. His arguments are foreclosed by *Gallegos-Hernandez v. United States*, 688 F.3d 190, 192-93 (5th Cir.), *cert. denied*, 133 S. Ct. 561 (2012).

Accordingly, the motion to proceed IFP is DENIED, and the appeal is DISMISSED as frivolous. *See* 5TH CIR. R. 42.2.