

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

United States Court of Appeals  
Fifth Circuit

**FILED**

April 30, 2013

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 12-50892

Summary Calendar  
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ROGELIO ROQUE HERNANDEZ,

Petitioner-Appellant

v.

UNITED STATES OF AMERICA; WARDEN, REEVES COUNTY DETENTION  
CENTER III; FEDERAL BUREAU OF PRISONS; GEO GROUP; UNITED  
STATES ATTORNEY GENERAL,

Respondents-Appellees

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 4:11-CV-75  
\_\_\_\_\_

Before JOLLY, ELROD, and GRAVES, Circuit Judges.

PER CURIAM:\*

Rogelio Roque Hernandez, federal prisoner # 21583-112, an alien against whom 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 this court to proceed in forma pauperis (IFP) to appeal the dismissal of his 28 U.S.C. § 2241 petition

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 12-50892

challenging the BOP's exclusion of him from rehabilitation programs and halfway houses. His arguments are foreclosed by this court's decision in *Gallegos-Hernandez v. United States*, 688 F.3d 190, 192-93 (5th Cir.), *cert. denied*, 133 S. Ct. 561 (2012).

Accordingly, Roque Hernandez's motion to proceed IFP is DENIED, and his appeal is DISMISSED as frivolous. *See* 5TH CIR. R. 42.2.