

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 97-7355**

---

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JORGE HUMBERTO VERGARA,

Defendant - Appellant.

---

Appeal from the United States District Court for the District of Maryland, at Baltimore. Benson E. Legg, District Judge. (CR-94-261-L)

---

Submitted: December 16, 1997

Decided: January 20, 1998

---

Before HAMILTON, LUTTIG, and WILLIAMS, Circuit Judges.

---

Affirmed by unpublished per curiam opinion.

---

Jorge Humberto Vergara, Appellant Pro Se. Jan Paul Miller, OFFICE OF THE UNITED STATES ATTORNEY, Greenbelt, Maryland, for Appellee.

---

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Jorge Humberto Vergara appeals from a district court order denying his motion for immediate deportation. We affirm.

Vergara motioned the district court for his immediate deportation under 8 U.S.C.A. § 1231(a)(4)(B) (West Supp. 1997). The district court found no private right of action to compel deportation proceedings under 8 U.S.C.A. § 1231. The district court was correct. That section authorizes the Attorney General to remove an alien prior to his term of incarceration if the Attorney General determines that removal is in the best interest of the United States. See 8 U.S.C.A. § 1231(a)(4)(B). It does not provide incarcerated aliens a private right of action to compel the Attorney General to deport them. See id. Finally, we conclude that the district court did not err in declining to construe Vergara's motion as one for relief under 28 U.S.C.A. § 2255 (West Supp. 1997).

Therefore, we affirm the district court order. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED