

December 17, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-50703
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CARLOS NOE SALAZAR-MONTES, also known as
Carlos Noe Salazar, also known as Carlos Salazar,

Defendant-Appellant,

Consolidated with
No. 04-50704

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CARLOS NOE SALAZAR, also known as Carlos Salazar,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:04-CR-299-ALL-FM

Before KING, Chief Judge, and DeMOSS and CLEMENT, Circuit Judges.

PER CURIAM:*

Appealing the Judgment in a Criminal Case, Carlos Noe
Salazar-Montes raises arguments that are foreclosed by

* 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this opinion should not be published and is not precedent except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.

Almendarez-Torres v. United States, 523 U.S. 224, 235 (1998), which held that a prior conviction is a sentencing factor under 8 U.S.C. § 1326(b)(2) and not a separate criminal offense. The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.