

December 14, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-50221
c/w No. 05-50252
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

AMADO PEREZ-AVALOS,

Defendant-Appellant.

Appeals from the United States District Court
for the Western District of Texas
USDC No. 3:04-CR-1146-ALL
USDC No. 3:04-CR-1615-ALL

Before KING, Chief Judge, and HIGGINBOTHAM and SMITH, Circuit Judges.

PER CURIAM:*

Appealing the Judgment in a Criminal Case, Amado Perez-Avalos raises arguments that are foreclosed by 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. Perez-Avalos also appeals from the final order revoking a previously-imposed supervised release term but has identified no error with respect

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

to that order. Because the only issue identified and argued by Perez-Avalos is foreclosed, the Government's motion for summary affirmance is GRANTED, and the judgments of the district court are AFFIRMED.