

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-41148  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BERNARDO ORTIZ-DIAZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. L-99-CR-884-1  
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August 1, 2001

Before DeMOSS, PARKER, and DENNIS, Circuit Judges.

PER CURIAM:\*

Bernardo Ortiz-Diaz ("Diaz"), federal prisoner #90214-079, appeals the district court's dismissal of his Rule 12(b)(2) motion challenging the validity of the indictment in his conviction for transporting an undocumented alien within the United States. Diaz argues that his conviction is unconstitutional because the indictment failed to allege the exact number of aliens attributed to him.

Diaz does not address the district court's reasons for dismissing his motion, namely that his motion was improper and

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

that the proper avenue of relief was for Diaz to request permission from this court to file a successive 28 U.S.C. § 2255 motion. Therefore, Diaz has abandoned the only issue before this court. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987). The district court's denial of Diaz' motion is affirmed.

AFFIRMED.