

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-50530  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SABINO ALCO CER-CASTRO,  
also known as Sabino Alcocer

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. A-00-CR-36-1-JN  
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April 12, 2001

Before JOLLY, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:\*

Sabino Alcocer-Castro appeals the 46-month sentence imposed after he pleaded guilty to a charge of illegal reentry into the United States following deportation in violation of 8 U.S.C. § 1326. For the first time on appeal, he asserts that in imposing his sentence, the district court failed to consider "prior criminal history, family ties, and safeguards against cruel and unusual punishment." The district court did not commit error, plain or otherwise, in sentencing Alcocer-Castro within

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the Sentencing Guideline range. This appeal is without arguable merit and is thus frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). It is therefore DISMISSED. 5TH CIR. R. 42.2.

APPEAL DISMISSED.