

**December 9, 2003**

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-50159  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

AUDELIO ARZOLA-AMAYA,

Defendant-Appellant.

- - - - -  
Appeal from the United States District Court  
for the Western District of Texas  
USDC No. EP-87-CR-162-1-H  
- - - - -

Before DAVIS, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:\*

Audelio Arzola-Amaya, federal prisoner # 38898-080, appeals the district court's denial of his motion invoking the version of FED. R. CRIM. P. 35 applicable to offenses committed prior to November 1, 1987. Because Arzola-Amaya's argument concerning his failure to be properly arraigned does not constitute a challenge to his sentence, the district court did not err in construing the Rule 35 motion as a disguised attempt to file an unauthorized successive 28 U.S.C. § 2255 motion. Accordingly, we AFFIRM.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Arzola-Amaya's motions for the appointment of counsel and to expedite his appeal are DENIED.

AFFIRMED; MOTIONS DENIED.