

**FILED**

February 23, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-40194  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RICARDO RODRIGUEZ-CAMPOS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 5:04-CR-2009-ALL  
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Before GARZA, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:\*

Ricardo Rodriguez-Campos (Rodriguez) pleaded guilty to illegal reentry after deportation and was sentenced to 46 months of imprisonment and three years of supervised release. He contends that the district court erred by ordering him to cooperate in the collection of a DNA sample as a condition of supervised release. This claim is dismissed for lack of jurisdiction because it is not ripe for review. See United

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

States v. Riascos-Cuenu, 428 F.3d 1100, 1101-02 (5th Cir. 2005),  
petition for cert. filed (Jan. 9, 2006) (No. 05-8662).

Rodriguez contends that 8 U.S.C. § 1326(b) is unconstitutional and that this court should vacate his sentence and remand his case for resentencing to no more than two years in prison under 8 U.S.C. § 1326(a). As he concedes, this contention is foreclosed by Almendarez-Torres v. United States, 523 U.S. 224, 235 (1998).

JUDGMENT AFFIRMED; APPEAL DISMISSED IN PART.