

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 98-11516  
Summary Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DAVID GARCIA-ANTUNEZ,

Defendant-Appellant.

---

Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:98-CR-268-G-ALL

---

November 26, 1999

Before HIGGINBOTHAM, DeMOSS and STEWART, Circuit Judges.

PER CURIAM:\*

David Garcia-Antunez (Garcia) pleaded guilty to illegal reentry of a deported alien in violation of 8 U.S.C. § 1326(a) & (b)(2). On appeal, he challenges the district court's denial of a motion to dismiss the indictment.

Garcia argues that the previous deportation proceeding, which served as an element of the illegal reentry charge, violated Garcia's constitutional right to due process. *See United States v. Mendoza-Lopez*, 481 U.S. 828, 837-39 (1986). This court has held that expedited deportation proceedings, such as the one used in Garcia's case, do not violate a defendant's due process rights. *See United States v. Benitez-Villafuerte*, \_\_\_F.3d\_\_\_, 1999 WL 642212, at \*5-6 (5th Cir. 1999). Moreover, Garcia has failed to show actual prejudice in his challenge of the underlying deportation

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

proceeding. *See id.* at \*6. Accordingly, the judgement of the district court is AFFIRMED.