

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40063
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE HOMERO CAVAZOS-ORTIZ,
also known as Juan Jose Cavazos,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. B-97-CR-306-1
- - - - -

December 10, 1998

Before DAVIS, DeMOSS and STEWART, Circuit Judges.

PER CURIAM:*

Jose Homero Cavazos-Ortiz pleaded guilty to being an illegal alien who had been previously arrested and deported and who, without the consent of the Attorney General, was found to be in the United States unlawfully, in violation of 8 U.S.C. § 1326. He was sentenced to 51 months' imprisonment. Cavazos-Ortiz appeals his sentence, arguing that district court erred in including his 1993 guilty-plea conviction for making false statements in computing his criminal history score because the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

conviction was obtained in violation of his fundamental right to counsel.

We have reviewed the record and the briefs on appeal and conclude that the district court did not plainly err in including Cavazos-Ortiz's 1993 guilty-plea conviction in the computation of Cavazos-Ortiz's criminal history score. United States v. Calverley, 37 F.3d 160, 162-64 (5th Cir. 1994)(en banc); United States v. Haymer, 995 F.2d 550, 552 (5th Cir. 1993). Cavazos-Ortiz's sentence is AFFIRMED.

AFFIRMED.