

October 21, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-50078
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE ARIAS-HERNANDEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. DR-03-CR-406-1-AML

Before JOLLY, JONES, and WIENER, Circuit Judges.

PER CURIAM:*

Appealing the Judgment in a Criminal Case, Jose Arias-Hernandez concedes that the arguments raised are foreclosed by circuit precedent but seeks to preserve them for further review. The Government has moved for summary affirmance in lieu of filing an appellee's brief. The motion is GRANTED, and the judgment of the district court is AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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