

October 21, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-50475  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

NICOLAS MARRUFO-GUTIERREZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 3:04-CR-202-ALL-DB  
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Before JOLLY, JONES, and WIENER, Circuit Judges.

PER CURIAM:\*

Appealing the Judgment in a Criminal Case, Nicolas Marrufo-Gutierrez 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.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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