

October 5, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-50177
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PEDRO AVILA-RODRIGUEZ, also known as Juan Carlos
Sanchez-Avila, also known as Juan Carlos Sanchez,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:05-CR-1857

Before JONES, Chief Judge, and SMITH and STEWART, Circuit Judges.

PER CURIAM:*

Appealing the Judgment in a Criminal Case, Pedro Avila-Rodriguez raises arguments that are foreclosed by United States v. Esparza-Gonzalez, 268 F.3d 272, 273-74 (5th Cir. 2001), which held that a defendant must allege prejudice resulting from the district court's failure to ask the defendant directly whether the defendant has read and discussed the presentence report with counsel. The Government's motion for summary affirmance 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.