

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-51117
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

HECTOR RAUL CASTILLO-REZA,
also known as Hector Raul Castillo,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-01-CR-110-ALL-EP

August 21, 2002

Before HIGGINBOTHAM, DAVIS, and PARKER, Circuit Judges.

PER CURIAM:*

Hector Raul Castillo-Reza appeals his conviction and sentence for illegally reentering into the United States following deportation after the commission of an aggravated felony, in violation of 8 U.S.C. § 1326 (a) & (b). He contends that the Immigration and Nationality Act's (INA) derivative citizenship provisions violate his right to equal protection under the Fifth Amendment because disparate treatment is afforded

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

to children based on their parents' marital status at the time of the child's birth. Castillo-Reza acknowledges that his argument is foreclosed by this court's decision in United States v. Cervantes-Nava, 281 F.3d 501 (5th Cir.), cert. denied, 122 S. Ct. 2379 (2002), but he seeks to preserve the issue for further Supreme Court review.

As Castillo-Reza concedes, this court can not alter the derivative citizenship requirements of the INA for purposes conferring citizenship on an alien, despite a presumed equal protection violation. See id. at 503-06. Accordingly, Castillo-Reza's conviction and sentence are AFFIRMED.