

June 24, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-21159  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CARMELO HERNANDEZ-HERNANDEZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-01-CR-43-1  
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Before DeMOSS, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:\*

Carmelo Hernandez-Hernandez (Hernandez), federal inmate # 97237-079, appeals the district court's denial of his motion to set aside the \$1000 fine which was imposed after he pleaded guilty to being found present in the United States following deportation. The propriety of Hernandez's fine is not cognizable under any postconviction motion. Because the district court was without jurisdiction to consider the motion, the district court's denial of the motion is AFFIRMED. See United States v. Early, 27

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

F.3d 140, 141 (5th Cir. 1994)(affirming district court's denial of motion to reduce sentence on the merits on alternative basis of lack of jurisdiction).