

**FILED**

September 2, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-11225  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FRANCISCO JAVIER FUENTES-VILLARREAL,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:00-CR-3-ALL  
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Before JOLLY, HIGGINBOTHAM, and PICKERING, Circuit Judges.

PER CURIAM:\*

Francisco Javier Fuentes-Villarreal was convicted of one charge of illegal reentry into the United States. The district court sentenced him to 88 months in prison and a three-year term of supervised release. Fuentes-Villarreal argues on appeal that the district court erred in denying his motion to dismiss the indictment based on an alleged violation of his Sixth Amendment right to a speedy trial.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Fuentes-Villarreal has not shown that the district court erred in denying his motion. Fuentes-Villarreal has not shown that he is entitled to a presumption of prejudice in connection with the delay between his indictment and prosecution, nor has he shown actual prejudice arising from this delay. See United States v. Serna-Villarreal, 352 F.3d 225, 230 (5th Cir. 2003), cert. denied, 124 S. Ct. 1896 (2004). Accordingly, the district court's denial of Fuentes-Villarreal's motion to dismiss is AFFIRMED.