

October 22, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-50522  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TOMAS GARDEA-CALLEROS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. EP-00-CR-1783-ALL-H  
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Before KING, Chief Judge, and JOLLY and STEWART, Circuit Judges.

PER CURIAM:\*

Tomas Gardea-Calleros, federal inmate # 11508-180, appeals from the denial of his motion for reconsideration of his sentence which the district court construed as a motion for reduction of sentence. He argues that the Government improperly relied on his prior deportation as an element of his offense under 8 U.S.C. § 1326 because that prior deportation was the result of a due process violation. Because the district court was without authority to modify the imposed term, the denial of the motion

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

for a sentence reduction is AFFIRMED. See United States v. Bridges, 116 F.3d 1110, 1112 (5th Cir. 1997).