

**FILED**

August 18, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-40046  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

VICTOR HERNANDEZ-CALDERON,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. L-03-CR-1281-ALL  
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Before HIGGINBOTHAM, DAVIS, and PICKERING, Circuit Judges.

PER CURIAM:\*

Appealing the Judgment in a Criminal Case, Victor Hernandez-Calderon concedes that the arguments raised are foreclosed by circuit precedent but seeks to preserve them for further review. The Government has moved for summary affirmance in lieu of filing an appellee's brief. The motion is GRANTED, and the judgment of the district court is AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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