

March 11, 2005

Charles R. Fulbruge III
Clerk

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 04-60469

LAURO AGUIRRE

Petitioner

VERSUS

UNITED STATES PAROLE COMMISSION

Respondent

Petition for Review of Order by the
United States Parole Commission
(40889-180)

Before DAVIS, SMITH and DeMOSS, Circuit Judges.

PER CURIAM:*

The Parole Commission did not clearly err in its factual determinations that this homicide was intentional and not committed in the heat of passion. Under these facts the commission did not err in concluding that the most analogous United States crime to the Mexican crime of simple murder was second degree murder. The

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

findings of the Commission which were in turn gleaned from the record of the Mexican trial that particularly supported its factual determinations were: 1)a considerable delay ensued from the time of the physical encounter between the defendant and the bartenders in the "Peanuts and Beer" bar; 2)uncontradicted evidence that the defendant executed a u-turn with his automobile, turned his headlights on, crossed over into the opposing lane of travel at a high rate of speed and struck the victim.

AFFIRMED.