

FILED

December 14, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-10371
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE EFRAIN CASSIO,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:02-CR-264-ALL-R

Before KING, Chief Judge, and HIGGINBOTHAM and SMITH, Circuit Judges.

PER CURIAM:*

Appealing the Judgment in a Criminal Case, Jose Efrain Cassio raises arguments that are foreclosed by United States v. Lopez-Ortiz, 313 F.3d 225, 229-31 (5th Cir. 2002), which held that an immigration judge's failure to inform an alien of his eligibility for discretionary waiver of removal at his removal proceeding did not render the proceeding fundamentally unfair. The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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