

April 12, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-40746
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RICARDO MARTINEZ-HIGAREDA,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:04-CR-2255-1

Before JONES, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

Ricardo Martinez-Higareda pleaded guilty pursuant to an oral plea agreement to possession with intent to distribute more than 50 kilograms of marijuana. The district court sentenced Martinez-Higareda to 37 months in prison and three years of supervised release.

For the first time on appeal, Martinez-Higareda argues that the district court violated his Fourth Amendment rights by ordering, as a written condition of his supervised release, that he cooperate in the collection of DNA by his probation officer.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

As Martinez-Higareda concedes, his claim is not ripe for review. See United States v. Riascos-Cuenu, 428 F.3d 1100, 1101-02 (5th Cir. 2005), petition for cert. filed (Jan. 9, 2006) (No. 05-8662). He raises the issue only to preserve it for further review.

The appeal is DISMISSED for lack of jurisdiction.