

November 9, 2005

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-50243  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JESUS RICARDO REYES-MARTINEZ,

Defendant-Appellant,

Consolidated With  
No. 05-50244

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JESUS RICARDO REYES-MARTINEZ, also  
known as Jesus Ricardo Reyes,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 3:04-CR-1591-ALL  
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Before REAVLEY, GARZA, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Appealing the Judgment in a Criminal Case, Jesus Ricardo  
Reyes-Martinez raises arguments that are foreclosed by

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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that this opinion should not be published and is not precedent  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.

Almendarez-Torres v. United States, 523 U.S. 224, 235 (1998), which held that a prior conviction is a sentencing factor under 8 U.S.C. § 1326(b)(2) and not a separate criminal offense. The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.