

December 14, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-50749
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DONALD MELVIN,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:04-CR-2788-1

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

PER CURIAM:*

Appealing the Judgment in a Criminal Case, Donald Melvin raises arguments that are foreclosed by United States v. Doggett, 230 F.3d 160, 166 (5th Cir. 2000), which held that Almendarez-Torres v. United States, 523 U.S. 224, 235 (1998), still controls prior conviction enhancements under 21 U.S.C. § 841, notwithstanding Apprendi v. New Jersey, 530 U.S. 466 (2000). 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.