

October 5, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-10170
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE REMEDIOS REYES-GARCIA, also known as Jose
Remedios Reyes, also known as Ricardo Valles Ramirez,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:05-CR-134

Before JONES, Chief Judge, and SMITH and STEWART, Circuit Judges.

PER CURIAM:*

Appealing the Judgment in a Criminal Case, Jose Remedios Reyes-Garcia raises arguments that are foreclosed by Almendarez-Torres v. United States, 523 U.S. 224, 235 (1998), which held that 8 U.S.C. § 1326(b)(2) is a penalty provision and not a separate criminal offense, and by United States v. Alonzo, 435 F.3d 551, 554 (5th Cir. 2006), which held that a sentence within a properly calculated Guideline range is presumptively

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

reasonable. The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.