

April 4, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-51397
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ERIC EDUARDO ZEPEDA-SOTO, also known as Eric Eduardo Zepeda,

Defendant-Appellant.

Consolidated w/
No. 06-51504
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ERIC EDUARDO ZEPEDA, also known as Eric Ecuardo Zepeda,

Defendant-Appellant.

Consolidated w/
No. 06-51505
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ERIC EDUARDO ZEPEDA,

Defendant-Appellant.

Appeals from the United States District Court
for the Western District of Texas
USDC No. 3:06-CR-743-ALL
USDC No. 3:95-CR-26-ALL
USDC No. 3:06-CR-1265-ALL

Before JONES, Chief Judge, and HIGGINBOTHAM and CLEMENT, Circuit Judges.

PER CURIAM:*

Appealing the Judgments in these Criminal Cases, the defendant 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. The Government's motion for summary affirmance is GRANTED, and the judgments of the district court are 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.