

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

January 30, 2008

Charles R. Fulbruge III
Clerk

No. 07-50774
Consolidated with
No. 07-50782
Conference Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

SABINO GONZALEZ-MALDONADO, also known as Sabino Gonzalez

Defendant-Appellant

Appeals from the United States District Court
for the Western District of Texas
USDC No. 3:06-CR-1390-ALL
USDC No. 3:07-CR-441-ALL

Before REAVLEY, BENAVIDES, and ELROD, Circuit Judges.

PER CURIAM:*

Appealing the Judgments in Criminal Cases, Sabino Gonzalez-Maldonado 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. *United States v. Pineda-*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 07-50774 c/w
No. 07-50782

Arrellano, 492 F.3d 624, 625 (5th Cir. 2007), cert. denied, 2008 WL 59441 (Jan. 7, 2008) (No. 07-6202). The Government's motion for summary affirmance is GRANTED, and the judgments of the district court are AFFIRMED.