

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 07-51048
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

November 24, 2008

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

ARMANDO DOMINGUEZ-CHAVEZ

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:07-CR-931-ALL

Before SMITH, STEWART and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Armando Dominguez-Chavez (Dominguez) appeals the 24-month sentence imposed following his guilty plea conviction for illegal reentry in violation of 8 U.S.C. § 1326. Dominguez contends that the district court abused its discretion in denying his motion for discovery and failing to compel the Government to produce documentation concerning the Western District of Texas's refusal to participate in a fast-track program. He also contends that the absence of a fast-track program in the Western District of Texas resulted in an unwarranted

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

sentencing disparity and that the district court erred in failing to consider this unwarranted sentencing disparity pursuant to 18 U.S.C. § 3553(a)(6).

Dominguez's contention that the absence of a fast-track program in the Western District of Texas resulted in an unwarranted sentencing disparity is foreclosed by circuit precedent. See *United States v. Gomez-Herrera*, 523 F.3d 554, 562-63 (5th Cir. 2008), petition for cert. filed (July 2, 2008) (No. 08-5226); *United States v. Lopez-Velasquez*, 526 F.3d 804, 808 (5th Cir. 2008), petition for cert. filed (July 25, 2008) (No. 08-5514). Further, in light of *Gomez-Herrera* and *Lopez-Velasquez*, the materials sought were neither relevant nor necessary to district court's imposition of sentence, and Dominguez has failed to show that the district court abused its discretion in denying his motion for discovery. See *United States v. Butler*, 429 F.3d 140, 148 (5th Cir. 2005). Finally, Dominguez has failed to adequately raise or develop his due process and equal protection arguments in his appellate brief, and, thus, they are waived. See *United States v. Thames*, 214 F.3d 608, 611 n.3 (5th Cir. 2000). Accordingly, the district court's judgment is AFFIRMED.