

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

August 18, 2009

Charles R. Fulbruge III
Clerk

No. 08-11094
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

SERGIO MARQUEZ-MENDOZA,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:08-CR-75-ALL

Before HIGGINBOTHAM, DAVIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Sergio Marquez-Mendoza (Marquez) appeals his guilty plea conviction and sentence for illegal reentry after deportation in violation of 8 U.S.C. § 1326. He argues that his case should be remanded so the district court can consider the disparity created by early disposition programs. He also contends that the selective implementation of “fast-track” programs violates the Equal Protection Clause. The Government has moved to dismiss the appeal, for summary

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

affirmance, or, in the alternative, for an extension of time to file an appellate brief.

As Marquez concedes, his appellate arguments are foreclosed by our precedent. *See United States v. Gomez-Herrera*, 523 F.3d 554, 563 n.4 (5th Cir.), *cert. denied*, 129 S. Ct. 624 (2008); *United States v. Rodriguez*, 523 F.3d 519, 526 (5th Cir.), *cert. denied*, 129 S. Ct. 624 (2008). He raises these arguments solely to preserve them for further review.

Accordingly, the district court's judgment is AFFIRMED. The Government's motion for summary affirmance is GRANTED. The Government's motion to dismiss the appeal and its alternative motion for an extension of time to file an appellate brief are DENIED.