

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

United States Court of Appeals  
Fifth Circuit

**FILED**

February 3, 2012

Lyle W. Cayce  
Clerk

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No. 10-50778  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ERMI ARNOLDO BECCERRA-MORALES, also known as Juan Alonso Montes-Torres,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 3:10-CR-654-1

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Before KING, JOLLY, and GRAVES, Circuit Judges.

PER CURIAM:\*

Ermi Arnaldo Beccerra-Morales was convicted of one charge of attempted illegal reentry into the United States as well as one charge of false personation in immigration matters and was sentenced to serve a within-Guidelines sentence of 46 months in prison and a three-year term of supervised release. In this appeal, Beccerra-Morales argues that his sentence is improper because he did

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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not admit that his prior deportation occurred subsequent to his conviction for a drug-trafficking offense.

We review this claim for plain error only due to Beccerra-Morales's failure to present it to the district court. *United States v. Rojas-Luna*, 522 F.3d 502, 504 (5th Cir. 2008). An error is plain if it was clear or obvious and affected the defendant's substantial rights. *Puckett v. United States*, 129 S. Ct. 1423, 1429 (2009). Our review of the record, Beccerra-Morales's arguments, and pertinent authority shows that he has not met this standard. Instead, the record shows sufficient support for the district court's sentencing decision. *See United States v. Almendarez-Torres*, 523 U.S. 224, 226-27 (1998); *Rojas-Luna*, 522 F.3d at 504-06.

This appeal is not frivolous and, although we conclude that the judgment should be affirmed without further briefing, summary affirmance is not appropriate. *See United States v. Holy Land Found. for Relief & Dev.*, 445 F.3d 771, 781 (5th Cir. 2006). Thus, we affirm the judgment of the district court and deny the Government's motion for summary affirmance or, alternatively, for an extension of time to file a brief.

**AFFIRMED; MOTION DENIED.**