

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60601
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee,

versus

JUAN MANUEL REYES-PEREZ aka
Roman Javier Reyes-Perez,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
(CR L 94 78 1)

August 9, 1995

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Juan Manuel Reyes-Perez appeals his conviction for illegal entry after deportation. Title 8 U.S.C. § 1326(a). Based on the same act of illegal entry into the United States, Reyes had previously plead guilty to illegal entry in violation of 8 U.S.C. § 1325(a). For the first time on appeal, he argues that because every material element of the § 1325 offense is incorporated in the § 1326 offense, the second prosecution is barred by the Double

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Jeopardy clause.

We recently have rejected this precise argument. United States v. Flores-Peraza, WL 389913 (5th Cir. July 3, 1995). Reyes therefore is precluded from prevailing on this claim.

Accordingly, the conviction is AFFIRMED.