

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-10547
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RODRIGO FLORES-SOSA,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:94-CR-17-A
- - - - -

April 16, 1996

Before DUHÉ, DeMOSS, and DENNIS, Circuit Judges.

PER CURIAM:*

Rodrigo Flores-Sosa argues for the first time on appeal that the district court did not have jurisdiction to order him deported upon the completion of his term of imprisonment as a condition of his supervised release.

Title 18 U.S.C. § 3583(d) provides in part that "[i]f an alien defendant is subject to deportation, the court may provide, as a condition of supervised release, that he be deported and remain outside the United States, and may order that he be delivered to a duly authorized immigration official for such deportation."

Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

It was decided after sentence was imposed that this provision does not authorize a district court to order a defendant's deportation, but merely permits the sentencing court to order that an alien subject to deportation be surrendered to immigration officials. United States v. Quaye, 57 F.3d 447, 450-51 (5th Cir. 1995). Neither did the United States invoke 8 U.S.C. § 1252a(d). Thus, the district court exceeded its authority in ordering Flores-Sosa deported immediately upon the completion of his term of imprisonment.

Accordingly, we MODIFY the judgment as follows and AFFIRM as modified:

As a condition of supervised release, upon completion of his term of imprisonment, the defendant is to be surrendered to a duly-authorized immigration official for deportation in accordance with the established procedures provided by the Immigration and Naturalization Act, 8 U.S.C. §§ 1101 et seq. As a further condition of supervised release, if ordered deported, defendant shall remain outside of the United States.

MODIFIED AND AFFIRMED.