

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-50939  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PEDRO BUSTAMANTE-ARRAS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. P-25-CR-18  
- - - - -  
February 24, 1997

Before SMITH, EMILIO M. GARZA, AND PARKER, CIRCUIT JUDGES.

PER CURIAM:\*

Pedro Bustamante-Arras was convicted of encouraging an alien to enter the United States illegally. See 8 U.S.C. § 1324(a)(1)(A)(iv) (West Supp. 1996). He argues that the district court erred by refusing his request for an instruction on the lesser-included offense of aiding and abetting the entry of an alien. He is incorrect. *Schmuck v. United States*, 489 U.S. 705, 716 (1989); *United States v. Fitzgerald*, 89 F.3d 218, 220 (5th Cir.), cert. denied, 117 S. Ct. 446 (1996).

AFFIRMED.

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.