

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-11508
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JESSER MOISES FIGUEROA-SERRANO,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:98-CR-118-1-A
- - - - -

September 30, 1999

Before REAVLEY, SMITH and DENNIS, Circuit Judges.

PER CURIAM:*

Jesser Moises Figueroa-Serrano (Figueroa) appeals his conviction following a bench trial on the charge of illegal reentry into the United States by a removed alien, 8 U.S.C. § 1326. We have reviewed the briefs of the parties and the applicable case law, and we conclude that the district court did not err in its judgment of conviction. Because Figueroa is an alien "previously deported" instead of an alien "previously denied admission and removed," his prosecution for illegal

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

reentry was not excepted pursuant to § 1326(a)(2)(B). Figueroa's attempt to invoke the doctrine of "entrapment by estoppel" fails because he does not show that a government official actively assured him that he could legally return to the United States after five years without permission of the Attorney General. See United States v. Spires, 79 F.3d 464, 466 (5th Cir. 1996).

AFFIRMED.