

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40703
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

OBED CARDENAS,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. L-97-CR-320-ALL
- - - - -

June 16, 1999

Before EMILIO M. GARZA, BENAVIDES, and PARKER, Circuit Judges.

PER CURIAM:*

Obed Cardenas appeals from his bench-trial conviction for illegal entry into the United States after deportation. He argues that the district court erred by finding that he was competent to stand trial. A district court's competency finding is a mixed question of law and fact that requires this court to "re-analyze the facts and take a hard look at the trial judge's ultimate conclusion" but should not be reversed unless it is "clearly arbitrary or unwarranted." United States v. Doke, 171 F.3d 240, 247 (5th Cir. 1999)(citations omitted).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

A defendant is incompetent to stand trial if he suffers from "a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense." 18 U.S.C. § 4241(d). The court-ordered psychiatric evaluation concluded that Cardenas had "borderline mental problems" but had "sufficient, present ability to understand the nature and consequences of the proceedings against him" and was "aware of the difference between right and wrong." Cardenas did not present any contrary evidence at the psychiatric evaluation hearing. The district court therefore did not err in finding that Cardenas was competent to stand trial.

Accordingly, the district court's judgment is AFFIRMED.