

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-20549
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JUAN MIGUEL CHAIDEZ-ORANTES,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-98-CR-504-1

February 16, 2000

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

PER CURIAM:*

Juan Miguel Chaidez-Orantes appeals his conviction and sentence for illegal reentry into the United States after deportation, a violation of 8 U.S.C. § 1326. He argues that the district court should have suppressed his prior deportation because he was deprived of due process during the administrative-deportation proceeding under 8 U.S.C. § 1228. He also argues that he need not establish actual prejudice in order to collaterally attack his prior deportation.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

This court has rejected the arguments made by Chaidez-Orantes in United States v. Benitez-Villafuerte, 186 F.3d 651, 659-60 (5th Cir. 1999), cert. denied, 120 S. Ct. 838 (2000). We therefore AFFIRM his conviction.

Chaidez-Orantes also argues that the case should be remanded so that the district court may correct the judgment's incorrect recitation that he pleaded guilty to one count of illegal reentry and that non-existent remaining counts were dismissed on the Government's motion. The Government concedes that the judgment contains the above-mentioned errors, but also asserts that the judgment erroneously states that Chaidez-Orantes was sentenced to "time served" rather than to a seven-month term.

Accordingly, the case is remanded for the purpose of correcting the clerical errors in the judgment pursuant to Fed. R. Crim. P. 36. The amended judgment should clarify and/or correct the provision regarding Chaidez-Orantes's term of imprisonment.

AFFIRMED IN PART; REMANDED IN PART.