

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 99-40921  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ADOLFO RICO-RICO,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
(99-CR-120-1)  
- - - - -

January 24, 2000

Before POLITZ, WIENER, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

Defendant-Appellant Adolfo Rico-Rico appeals his conviction and sentence for illegal reentry into the United States after deportation, in violation of 8 U.S.C. § 1326(b)(2). He argues that the district court should not have enhanced his sentence pursuant to U.S.S.G. § 2L1.2(b)(1)(A) because a predicate to application of the enhancement was his 1999 administrative deportation, which he contends was constitutionally invalid. He argues that commingling of the prosecutorial and adjudicatory functions of the Immigration and Naturalization Service deprived him of due process during the administrative deportation proceeding. We rejected that argument

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\* Pursuant to 5<sup>TH</sup> 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5<sup>TH</sup> CIR. R. 47.5.4.

in United States v. Benitez-Villafuerte, 186 F.3d 651, 659-60 (5th Cir.), petition for cert. filed, \_\_\_ U.S.L.W. \_\_\_ (U.S. Nov. 22, 1999)(No. 99-7193). The decision of the district court is therefore

AFFIRMED.