

February 18, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-40786
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JUAN MANUEL AVILA-CHAVEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. B-03-CR-59-1

Before HIGGINBOTHAM, EMILIO M. GARZA, and PRADO, Circuit Judges.

PER CURIAM:*

Juan Manuel Avila-Chavez (Avila) appeals his sentence for one count of illegal entry into the United States after deportation, a violation of 8 U.S.C. § 1326(a). Avila contends that the condition barring his possession of "any other dangerous weapon" must be stricken from the written judgment because it conflicts with the sentence as orally pronounced by the district court.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 issue is now foreclosed by our decision in United States v. Torres-Aguilar, 352 F.3d 934, 937-38 (5th Cir. 2003). The district court's omission of the dangerous weapon prohibition during the oral pronouncement of sentence did not create a conflict with the sentence set forth in the judgment. Id. at 938.

AFFIRMED.