

**FILED**

**December 10, 2003**

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-40912  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RODOLFO ACOSTA-ORELLANO,  
also known as Adan Cruz,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. C-03-CR-33-1  
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Before DAVIS, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:\*

Rodolfo Acosta-Orellano appeals his sentence imposed following his guilty plea conviction for being found illegally in the United States following deportation in violation of 8 U.S.C. § 1326(a), (b)(2).

Acosta-Orellano argues that his prior conviction for possession of a controlled substance is not an aggravated felony under U.S.S.G. § 2L1.2(b)(1)(C). This argument is foreclosed by

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

our decision in United States v. Caicedo-Cuero, 312 F.3d 697,  
705-11 (5th Cir. 2002), cert. denied, 123 S. Ct. 1948 (2003).

AFFIRMED.