

September 22, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-50275
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

VICTOR MANUEL GARCIA-DOMINGUEZ, also known as
Sergio Antonio Santander

Defendant - Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. MO-01-CR-78-ALL

Before KING, Chief Judge, and DAVIS and STEWART, Circuit Judges.

PER CURIAM:*

Victor Manuel Garcia-Dominguez appeals from his illegal reentry conviction. He collaterally challenges his 1988 deportation proceedings on the basis that he was denied his right to appeal when he was removed from the United States prior to the expiration of the ten-day period for appealing the deportation order. We have appellate jurisdiction. See United States v. Mendoza-Lopez, 481 U.S. 828, 839 (1987).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

We agree with the district court that under the circumstances of Garcia's case, his voluntary return to Mexico two days before the expiration of the appellate deadline did not render his deportation proceedings "fundamentally unfair" and, therefore, he is not entitled to relief. See United States v. Mendoza-Mata, 322 F.3d 829, 832 (5th Cir. 2003).

AFFIRMED.