

May 2, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-40238
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SERGIO ZARAGOZA-ZAVALA, also known as Louis A. Valera,

Defendant-Appellant.

Consolidated with
No. 06-40248
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SERGIO ZARAGOZA,

Defendant-Appellant.

Appeals from the United States District Court
for the Southern District of Texas
USDC No. 5:05-CR-600-ALL
USDC No. 5:05-CR-2562-ALL

Before HIGGINBOTHAM, WIENER, and PRADO, Circuit Judges.

PER CURIAM:*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Appealing the Judgments in these Criminal Cases, the defendant raises arguments that are foreclosed by Almendarez-Torres v. United States, 523 U.S. 224, 235 (1998), which held that 8 U.S.C. § 1326(b)(2) is a penalty provision and not a separate criminal offense. The Government's motion for summary affirmance is GRANTED, and the judgments of the district court are AFFIRMED.