

FILED

August 21, 2007

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 06-41515
Conference Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

ALTON LAMAR MARTIN

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:06-CR-627-ALL

Before HIGGINBOTHAM, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:*

Alton Lamar Martin appeals the 39-month sentence he received following his guilty-plea conviction for transporting illegal aliens for profit, in violation of 8 U.S.C. § 1324. His sole argument on appeal is that the district court erred in refusing his request for a downward departure, pursuant to U.S.S.G. § 4A1.3(e), on the ground that his criminal history score overrepresented his criminal past.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 lack jurisdiction to consider the argument. See *United States v. Hernandez*, 457 F.3d 416, 424 (5th Cir. 2006).

The appeal is DISMISSED.