

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-40065
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSÉ REYNALDO RODRIGUEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. B-98-CR-434-1

October 19, 1999

Before JONES, SMITH, and STEWART, Circuit Judges.

PER CURIAM:*

José Reynaldo Rodriguez appeals his guilty-plea conviction for illegal reentry into the United States after deportation in violation of 8 U.S.C. §§ 1326(a), (b)(2). He argues that the district court mistakenly believed that it lacked the authority to depart downward based on his cultural assimilation into the United States. Because the record indicates that the district court recognized its authority to depart downward based on cultural assimilation but determined that a downward departure was not warranted based on the facts of the case, we lack

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

jurisdiction to review the district court's decision. See United States v. Reyes-Nava, 169 F.3d 278, 280 (5th Cir. 1999).

APPEAL DISMISSED.