

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

August 20, 2008

No. 07-11108
Conference Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JOSE LUIS VILLARREAL-MORALES

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:07-CR-29-ALL

Before GARZA, CLEMENT, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Jose Luis Villarreal-Morales appeals his guilty plea conviction and sentence for illegal reentry following deportation in violation of 8 U.S.C. § 1326. He contends that his 96-month sentence violated his equal protection rights because he did not have the benefit of a fast-track program in the Northern District of Texas and similarly situated defendants in jurisdictions with the program could receive lower sentences based simply on arbitrary geographic factors. Villarreal-Morales concedes that his argument is foreclosed by circuit

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

precedent, but he raises the argument to preserve it for further review. Based on Villarreal-Morales's concession, the Government moves for summary affirmance or dismissal. In the alternative, the Government requests an extension of time in which to file a brief on the merits.

Villarreal-Morales's equal protection argument is foreclosed by circuit precedent. See *United States v. Lopez-Velasquez*, 526 F.3d 804, 808 (5th Cir.), petition for cert. filed (July 25, 2008) (No. 08-5514). Accordingly, the district court's judgment is **AFFIRMED**, the Government's motion for summary affirmance is **GRANTED**, and the Government's motions for dismissal and an extension of time are **DENIED**.