

June 2, 2011

PUBLISH

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES COURT OF APPEALS

TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

Nos. 10-3066 & 10-3067

EUSEBIO SIERRA-LEDESMA,

Defendant-Appellant.

**APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
(D.C. Nos. 6:97-CR-10124-MLB-1 & 6:09-CR-10104-MLB-1)**

Timothy J. Henry, Assistant Federal Public Defender, Wichita, Kansas, for Defendant-Appellant.

Brent I. Anderson, Assistant United States Attorney (Barry R. Grissom, United States Attorney, with him on the brief), Wichita, Kansas, for Plaintiff-Appellee.

Before **KELLY, BALDOCK**, and **HARTZ**, Circuit Judges.

BALDOCK, Circuit Judge.

A jury convicted Defendant Eusebio Sierra-Ledesma of the crime of having been found in the United States, without the express consent of the Attorney General, after having been deported, in violation of 8 U.S.C. § 1326(a). Defendant appeals, claiming (1) the district court improperly failed to instruct the jury as to the mens rea