

United States Court of Appeals
Fifth Circuit**FILED**

February 24, 2006

Charles R. Fulbruge III
ClerkIN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-51092
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

OSCAR RENE GUTIERREZ-SALAZAR, also known as Oscar
Gutierrez, also known as Oscar R. Gutierrez, also
known as Oscar Rene Gutierrez, also known as Oscar
Rene Salazar, also known as Oscar Gutierrez Salazar,
also known as Oscarrene Salazargutierr, also known
as Oscar Renee Gutierrez,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:05-CR-53-ALL

Before GARZA, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

Appealing the Judgment in a Criminal Case, Oscar Rene Gutierrez-Salazar raises arguments that are foreclosed by Almendarez-Torres v. United States, 523 U.S. 224, 235 (1998), which held that a prior conviction is a sentencing factor under 8 U.S.C. § 1326(b)(2) and not a separate criminal offense. The

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.