

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

October 25, 2013

No. 12-20812
Conference Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE ANIBAR MARTINEZ ALVAREZ, also known as Jose Anibar Alvarez, also known as Jose Anibar Martinez-Alvarez, also known as Jose Martinez Alvarez,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:10-CR-720-1

Before JOLLY, JONES, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Jose Anibar Martinez Alvarez appeals a sentence imposed upon revocation of a term of supervised release, arguing that his sentence violates principles of double jeopardy because the revocation of his supervised release was based on the identical conduct that supports a subsequent conviction and sentence for illegal reentry. He concedes that his argument is foreclosed, but he raises the issue to preserve it for further review. Martinez Alvarez's concession is correct.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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See Johnson v. United States, 529 U.S. 694, 700-01 (2000); *United States v. Jackson*, 559 F.3d 368, 371 (5th Cir. 2009). Accordingly, the Government's motion for summary affirmance is GRANTED, its alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.