

NONPREEDENTIAL DISPOSTITION

To be cited only in accordance with
Fed. R. App. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted February 1, 2008

Decided February 11, 2008

Before

Hon. FRANK H. EASTERBROOK, *Chief Judge*

Hon. ILANA DIAMOND ROVNER, *Circuit Judge*

Hon. DIANE S. SYKES, *Circuit Judge*

UNITED STATES OF AMERICA, Plaintiff-Appellee, No. 07-2046 v. DAVID R. PEARCE, Defendant-Appellant.] Appeal from the United] States District Court for] the Northern District of] Illinois, Western Division.]] No. 06 CR 50031]] Philip G. Reinhard,] Judge.
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Counsel for the appellant in this case concedes that, unless the Supreme Court should overrule *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), there is no basis for disturbing the judgment. Only the Supreme Court is entitled to overrule one of its own decisions, so the appeal cannot succeed in this court. The issue has been preserved for presentation to a higher tribunal.

AFFIRMED.