

No. 18-

IN THE
Supreme Court of the United States

MARCO ANTONIO GARCIA-ECHAVERRIA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition for Writ of Certiorari
to the United States Court of Appeals
for the Fifth Circuit**

APPENDIX VOLUME

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Judgment in a Criminal Case issued the United States District Court for the Southern District of Texas, McAllen Division.

APPENDIX A

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

No. 17-40368
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
April 5, 2018

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MARCO ANTONIO GARCIA-ECHAVERRIA,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:16-CR-1046-1

Before WIENER, DENNIS, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Marco Antonio Garcia-Echaverria appeals the district court's denial of his motion to dismiss his indictment, which was premised on a collateral attack on a prior removal order. He contends that the immigration judge (IJ) who presided over his prior removal proceeding violated his due process rights by failing to advise him of his eligibility for discretionary relief under § 212(c) of the Immigration and Nationality Act, 8 U.S.C. § 1182. Garcia-Echaverria's

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 17-40368

argument is foreclosed by this court's precedent. *See United States v. Lopez-Ortiz*, 313 F.3d 225, 230 (5th Cir. 2002) ("[E]ligibility for § 212(c) relief is not a liberty or property interest warranting due process protection."). Consequently, Garcia-Echaverria has not shown that that the district court erred by denying his motion to dismiss the indictment. *See id.*

AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURT
Southern District of Texas
Holding Session in McAllen

ENTERED

April 06, 2017

David J. Bradley, Clerk

UNITED STATES OF AMERICA
v.
MARCO ANTONIO GARCIA-ECHAVERRIA

JUDGMENT IN A CRIMINAL CASE

CASE NUMBER: 7:16CR01046-001
USM NUMBER: 14636-265 See Additional Aliases.Terry Canales
Defendant's Attorney

THE DEFENDANT:

pleaded guilty to count(s) 1 of a single-count Indictment on January 5, 2017.

pleaded nolo contendere to count(s) _____ which was accepted by the court.

was found guilty on count(s) _____ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
8 U.S.C. § 1326(a) and 1326(b)	Being found in the U.S. after previous deportation.	06/21/2016	1

 See Additional Counts of Conviction.

The defendant is sentenced as provided in pages 2 through 3 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) _____

Count(s) _____ is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

April 3, 2017
Date of Imposition of Judgment
Signature of JudgeJANIS GRAHAM JACK
SENIOR U. S. DISTRICT JUDGE
Name and Title of JudgeApril 6, 2017

Date

DEFENDANT: MARCO ANTONIO GARCIA-ECHAVERRIA
CASE NUMBER: 7:16CR01046-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 18 months.

- See Additional Imprisonment Terms.
- The court makes the following recommendations to the Bureau of Prisons:
 - The defendant is remanded to the custody of the United States Marshal.
 - The defendant shall surrender to the United States Marshal for this district:
 - at _____ a.m. p.m. on _____.
 - as notified by the United States Marshal.
 - The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
 - before 2 p.m. on _____.
 - as notified by the United States Marshal.
 - as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: MARCO ANTONIO GARCIA-ECHAVERRIA
CASE NUMBER: 7:16CR01046-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$0.00		

- See Additional Terms for Criminal Monetary Penalties.
- The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal payees must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>

<input type="checkbox"/> See Additional Restitution Payees.		
TOTALS	<u>\$0.00</u>	<u>\$0.00</u>

- Restitution amount ordered pursuant to plea agreement \$ _____
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
 - the interest requirement is waived for the fine restitution.
 - the interest requirement for the fine restitution is modified as follows:
- Based on the Government's motion, the Court finds that reasonable efforts to collect the special assessment are not likely to be effective. Therefore, the assessment is hereby remitted.

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.