

05-7664 TOLEDO-FLORES V. UNITED STATES

DECISION BELOW: 149 FedAppx 241

LOWER COURT CASE NUMBER: 04-41378

QUESTION PRESENTED:

Has the Fifth Circuit erred in holding -- in opposition to the Second, Third, Sixth, and Ninth Circuits -- that a state felony conviction for simple possession of a controlled substance is a "drug trafficking crime" under 18 U.S.C. § 924(c) (2) and hence an "aggravated felony," under 8 U.S.C. § 1101(a) (43) (B), even though the same crime is a misdemeanor under federal law?

CONSOLIDATED WITH 05-547 FOR ONE HOUR ORAL ARGUMENT.

DISMISSED AS IMPROVIDENTLY GRANTED.

CERT. GRANTED 4/3/2006