

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

ORDER

VALENTIN VILLAVICENCIO-GARCIA,

06-CR-130-S-01

Defendant.

Defendant Valentin Villavicencio-Garcia moved to dismiss the indictment. The government opposed this motion. On September 22, 2006 the Honorable Stephen L. Crocker, United States Magistrate Judge, recommended that defendant's motion to dismiss be denied.

Pursuant to 28 U.S.C. § 636(b)(1)(c), any objections to the recommendation were to be filed not later than October 2, 2006. No objections have been filed.

Accordingly, the Court will adopt the Magistrate Judge's report and recommendation and deny defendant's motion to dismiss the indictment because the defendant has not shown that his due process rights were violated in his 2002 deportation hearing. Further, since defendant has not exhausted his administrative remedies he cannot challenge the deportation proceedings. See United States v. Roque-Espanola, 338 F.3d 724, 730 (7th Cir. 2003); 8 U.S.C. § 1326(d).

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ORDER

IT IS ORDERED that the Magistrate Judge's recommendation is ADOPTED.

IT IS FURTHER ORDERED that the defendant's motion to dismiss the indictment DENIED.

Entered this 3rd day of October, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge