

FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

BALTAZAR PERNILLO FUENTES,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of California
Gordon Thompson, Jr., District Judge, Presiding

Submitted May 9, 2001*
Pasadena, California

Filed May 29, 2001

Before: Pamela Ann Rymer, Michael Daly Hawkins, and
Ronald M. Gould, Circuit Judges.

Opinion by Judge Gould

No. 00-50524

D.C. No.
CR-00-00433-1-GT

OPINION

*The panel finds this case appropriate for submission without oral argument pursuant to Federal Rule of Appellate Procedure 34(a)(2).

Lupe C. Rodriguez, Jr., Office of the United States Attorney,

687 (9th Cir. 1988), and agree with Pernillo-Fuentes.

In Gracidas-Ulibarry, an en banc panel of this court held that "the crime of attempted illegal reentry into the