



**SUMMARY OF THE CASE AND  
STATEMENT REGARDING ORAL ARGUMENT**

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<b>I. THE DISTRICT COURT PROPERLY DENIED, ON LEGAL GROUNDS, DEFENDANT’S MOTION FOR DOWNWARD DEPARTURE ON CLAIMS HIS STATUS AS A DEPORTABLE ALIEN WOULD RESULT IN ADVERSE TREATMENT WHILE DEFENDANT WAS IN CUSTODY OF THE BUREAU OF PRISONS .....</b>	



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## **JURISDICTIONAL STATEMENT**

This is an appeal by defendant of his conviction in the United States District Court for the Southern District of Iowa. Defendant pleaded guilty to violation of Title 8, § 1326, illegally being found in the United States after previous deportation. At sentencing before United States District Judge Robert W. Pratt for violation of Title 8, § 1326(b)(2), defendant unsuccessfully sought to receive a downwards departure from his applicable guidelines sentence. The requested departure





## **STATEMENT OF THE CASE**



The court found at sentencing that Defendant was subject to the penalties in Title 8, U.S. C. § 1326(b)(2) as recommended by the Presentence Investigation

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<sup>2</sup> in the event of reversal of the prior holding in *United States v. Cardoza-Rodriguez*, 241 F.3d 613 (8th Cir. 2001)







must not have been considered sufficiently by the Sentencing Commission when formulating the Guidelines. *Koon v. United States*, 518 U.S. 81 (1996).

The issue has been thoroughly examined. It has been conclusively settled by.





of it a special or unusual case?" *Koon v. United States*, 518 U.S. 81, 95 (1996).

The answer in this matter is that no issues make it atypical – it is fully equivalent with every other case under this Guideline. See *United States v. Bonnet-Grullon*, 212 F.3d 692 (2d Cir. 2000). If departure sought by If 303antl –unrelaitedt

## CONCLUSION



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