

October 21, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-50058
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CARLOS CESAR VIDAL-BOUCHE,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-03-CR-1481-ALL-PM

Before JOLLY, JONES, and WIENER, Circuit Judges.

PER CURIAM:*

Carlos Cesar Vidal-Bouche appeals the sentence imposed following his guilty plea to illegal reentry, specifically the determination that his Texas conviction for unauthorized use of a motor vehicle (UUMV) constituted an aggravated felony for purposes of an eight-level enhancement under U.S.S.G.

§ 2L1.2(b)(1)(C) (2000). We affirm.

Vidal's argument that Texas's UUMV offense does not constitute a "crime of violence" under 18 U.S.C. § 16(b) is

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

foreclosed by United States v. Galvan-Rodriguez, 169 F.3d 217, 219 (5th Cir. 1999). Similarly, his contention that the Constitution prohibits the process by which an Article III judge applies the U.S.S.G. § 2L1.2(b)(1)(C) enhancement is foreclosed by United States v. Pineiro, 377 F.3d 464, 467-68 (5th Cir. 2004), petition for cert. filed (U.S. July 14, 2004) (No. 04-5263). We are bound by our precedent absent an intervening Supreme Court decision or a subsequent en banc decision. See United States v. Short, 181 F.3d 620, 624 (5th Cir. 1999).

AFFIRMED.