

April 20, 2005

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-41159  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LUIS MANUEL BEDOLLA-ALMANZA,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 7:04-CR-387-ALL  
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Before SMITH, CLEMENT, and PRADO, Circuit Judges.

PER CURIAM:\*

Luis Manuel Bedolla-Almanza appeals from the sentence imposed following his guilty plea to attempted illegal reentry. He argues pursuant to Apprendi v. New Jersey, 530 U.S. 466 (2000), that Almendarez-Torres v. United States, 523 U.S. 224, 235 (1998), should be overruled. He concedes that his constitutional argument is foreclosed by Almendarez-Torres, and he raises it solely to preserve its further review by the Supreme Court.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Apprendi did not overrule Almendarez-Torres. See Apprendi, 530 U.S. at 489-90; United States v. Dabeit, 231 F.3d 979, 984 (5th Cir. 2000). The Supreme Court's recent decisions in Shepard v. United States, 125 S. Ct. 1254, 1262-63 & n.5 (2005), United States v. Booker, 125 S. Ct. 738, 756 (2005), and Blakely v. Washington, 124 S. Ct. 2531, 2537 (2004), also did not overrule Almendarez-Torres. We therefore must follow Almendarez-Torres "unless and until the Supreme Court itself determines to overrule it." Dabeit, 231 F.3d at 984 (internal quotation marks and citation omitted).

AFFIRMED.