

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 00-21071  
Summary Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALBERTO SEGURA-ALVAREZ,

Defendant-Appellant.

-----  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-00-CR-307-ALL  
-----

July 30, 2001

Before GARWOOD, BARKSDALE and DeMOSS, Circuit Judges.

PER CURIAM:\*

Alberto Segura-Alvarez appeals the 57-month sentence imposed following his plea of guilty to a charge of illegal re-entry after deportation in violation of 8 U.S.C. § 1326. He contends that his prior felony conviction and the fact that he was subsequently deported were elements of the offense that should have been charged in the indictment because they resulted in his receiving an increased sentence under 8 U.S.C. § 1326(b)(2).

Segura-Alvarez acknowledges that his argument is foreclosed by the Supreme Court's decision in Almendarez-Torres v. United

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

States, 523 U.S. 224 (1998), but he seeks to preserve the issue for Supreme Court review in light of the decision in Apprendi v. New Jersey, 530 U.S. 466 (2000).

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), cert. denied, 121 S. Ct. 1214 (2001). Segura-Alvarez's argument is foreclosed. The judgment of the district court is AFFIRMED.