

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-50477  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

OSCAR BELTRAN-CASARES,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. DR-99-CR-686-1  
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December 14, 2000

Before DAVIS, STEWART, and PARKER, Circuit Judges.

PER CURIAM:\*

Oscar Beltran-Casares appeals his sentence following his guilty plea conviction for illegal re-entry after deportation in violation of 8 U.S.C. § 1326(a) and (b). Beltran argues that his prior felony conviction was an element of the offense of the instant conviction that had to be alleged in the indictment. Beltran acknowledges that his argument is foreclosed by Almendarez-Torres v. United States, 523 U.S. 224 (1998), but he seeks to preserve the issue for possible Supreme Court review in light of Apprendi v. New Jersey, 120 S. Ct. 2348 (2000).

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\* Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

Beltran's argument is foreclosed by Almendarez-Torres, 523  
U.S. at 235.

AFFIRMED.