

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-30761
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANTONIO SALAZAR-ROJAS, also known as Manuel
Lopez-Gonzalez, also known as Jesus Antonio
Salazar, also known as Antonio Salazar,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 01-CR-20-ALL-S

February 20, 2002

Before JOLLY, JONES, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Antonio Salazar-Rojas appeals the sentence imposed by the district court following his guilty-plea conviction for illegal reentry into the United States after deportation. He argues that his prior conviction for unauthorized entry of an inhabited dwelling was an element of the offense which should have been alleged in the indictment in view of Apprendi v. New Jersey, 530 U.S. 466, 490 (2000). The indictment alleged that he had a different felony conviction for simple criminal damage to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

property in an amount exceeding \$500. Salazar-Rojas' argument is foreclosed by the Supreme Court's decision in Almendarez-Torres v. United States, 523 U.S. 224 (1998). He states that he is raising this issue to preserve it for possible Supreme Court review in view of Apprendi. Apprendi did not overrule Almendarez-Torres. See Apprendi, 530 U.S. at 489-90; see also United States v. Dabeit, 231 F.3d 979, 984 (5th Cir. 2000), cert. denied, 121 S. Ct. 1214 (2001). This court must follow controlling Supreme Court precedent until the Supreme Court itself overrules it. See Dabeit, 231 F.3d at 984.

AFFIRMED.