

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-41226
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

VICTOR HUGO PRESAS,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-01-CR-11-1

June 19, 2002

Before HIGGINBOTHAM, DAVIS, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Victor Hugo Presas appeals the district court's judgment following his conviction for one count of illegal reentry into the United States, a violation of 8 U.S.C. § 1326. Presas first argues that the 16 level sentencing enhancement he received pursuant to U.S.S.G. § 2L1.2(b)(1)(A) violated his due process rights. He concedes that this argument is foreclosed by 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 v. Hinojosa-Lopez, 130 F.3d 691 (5th Cir. 1997), and he raises the issue only to preserve it for possible further review.

Presas next argues that the U.S.S.G. § 2L1.2 enhancement violates the rule of lenity. He concedes that this argument is likewise foreclosed by United States v. Rivera, 265 F.3d 310 (5th Cir. 2001), cert. denied, 122 S. Ct. 1105 (2002), and he raises this issue only to preserve it for possible further review.

Because the issues Presas raises are foreclosed by our precedent, the judgment of the district court is AFFIRMED.