

October 22, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-40206
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARCO AMBROSIO MEZA-LOPEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. L-02-CR-1233-ALL

Before KING, Chief Judge, and JOLLY and STEWART, Circuit Judges.

PER CURIAM:*

Marco Ambrosio Meza-Lopez (Meza) appeals his guilty-plea conviction and sentence for illegal reentry following deportation in violation of 8 U.S.C. § 1326. Meza argues that the "felony" and "aggravated felony" provisions of 8 U.S.C. § 1326(b)(1) and (2) are unconstitutional. Meza acknowledges that his argument is foreclosed by Almendarez-Torres v. United States, 523 U.S. 224, 235 (1998), but he asserts that the decision has been cast into doubt by Apprendi v. New Jersey, 530 U.S. 466, 489-90 (2000). He

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

seeks to preserve his argument for possible further review and "to avoid later accusations of procedural default should the law change on this question."

Meza's Apprendi argument is foreclosed by Almendarez-Torres, 523 U.S. at 235. We must follow the precedent set in Almendarez-Torres "unless and until the Supreme Court itself determines to overrule it." United States v. Dabeit, 231 F.3d 979, 984 (5th Cir. 2000) (internal quotation and citation omitted).

AFFIRMED.