

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-10563
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JUAN ANTONIO PLATERO-UMANZOR,
a/k/a Juan A. Platero,
a/k/a Juan A. Umanzor,
a/k/a Juan a. Huerta,

Defendant-Appellant.

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Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:95-CR-78-C
- - - - -

October 23, 1996

Before POLITZ, Chief Judge, and JOLLY and HIGGINBOTHAM, Circuit Judges.

PER CURIAM:*

Juan Antonio Platero-Umanzor appeals his conviction and sentence for illegal re-entry following deportation in violation of 8 U.S.C. § 1326. Platero-Umanzor argues that a prior felony conviction is an element of the offense which must be alleged and proved to support an enhanced sentence under § 1326(b)(1). This

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

court has held that subsection § 1326(b) is a sentencing enhancement provision rather than a separate offense. United States v. Vasquez-Olvera, 999 F.2d 943, 945-47 (5th Cir. 1993), cert. denied, 114 S. Ct. 889 (1994). The appeal is frivolous. See 5th Cir. R. 42.2.

DISMISSED.