

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-30240
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSÉ ANGEL ORTIZ-CARDENAS,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 96-CR-114-A
- - - - -

December 9, 1997

Before BARKSDALE, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

José Angel Ortiz-Cardenas appeals his sentence for illegal reentry of a deported alien by arguing that the district court erred by sentencing him pursuant to 8 U.S.C. § 1326(b)(2) instead of subsection (a). He concedes that his argument is foreclosed by United States v. Vasquez-Olvera, 999 F.2d 943, 946 (5th Cir. 1993). Notwithstanding that our decision in United States v. Almendarez-Torres, 113 F.3d 515 (5th Cir. 1996), is pending in the Supreme Court, see 117 S. Ct. 1333 (1997), one panel may not

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

overrule the decision of a prior panel absent en banc

reconsideration or superseding Supreme Court authority. Pruitt
v. Levi Strauss & Co., 932 F.2d 458, 465 (5th Cir. 1991).

AFFIRMED.