

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-11149
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RONY ISRAEL AMBROSIO, also
known as Ronnie Ismael
Lambrosio, also known as
Ronnie Anbrosio, also known as
Rodney Lambrosio, also known as
Ronny Ishmael Lambrosio,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:00-CR-162-ALL-D

April 12, 2001

Before JOLLY, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:*

Rony Israel Ambrosio argues that the district court erred in imposing an enhanced sentence based on his alleged prior aggravated felony convictions, which were not alleged in the indictment. He argues that his prior convictions were an element of the offense and not merely a sentence enhancement factor.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Ambrosio concedes that his argument is foreclosed by Almendarez-Torres v. United States, 523 U.S. 224 (1998), but he seeks to preserve the issue for possible Supreme Court review in light of Apprendi v. New Jersey, 530 U.S. 466, 120 S. Ct. 2348 (2000). Apprendi did not overrule Almendarez-Torres. See Apprendi, 120 S.Ct. at 2361-62 & n.15; see also United States v. Dabeit, 231 F.3d 979, 984 (5th Cir. 2000), cert. denied, 121 S. Ct. 1214 (2001).

As Ambrosio's arguments for appeal are foreclosed, he has failed to show that the district court committed error in imposing sentence. Ambrosio's judgment of conviction is AFFIRMED.