

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-20412
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RAUL ERNESTO QUINTANILLA MENDOZA, also known as
Eric Ernesto Quintanilla,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-99-CR-703-1

February 15, 2001

Before SMITH, BARKSDALE, and EMILIO M. GARZA, Circuit Judges

PER CURIAM:*

Raul Ernesto Quintanilla Mendoza appeals his guilty-plea conviction for unlawful reentry into the United States following a prior deportation in violation of 8 U.S.C. § 1326(a). For the following reasons, we affirm.

Mendoza's first argument that his prior felony conviction is an element of the offense rather than a sentencing factor is foreclosed by Almendarez-Torres v. United States, 523 U.S. 224,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

235 (1998). He concedes as much, but he raises the issue to preserve it for possible Supreme Court review.

His second argument is that the indictment was deficient because it failed to allege any mens rea. We rejected such an argument in a case involving a nearly identical indictment. See United States v. Guzman-Ocampo, 236 F.3d 233, 239 (5th Cir. 2000). For the reasons set forth in that case, we conclude that the indictment sufficiently apprised Mendoza of the nature of the charges against him.

For the foregoing reasons, we AFFIRM the judgment of the district court.

AFFIRMED.