

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-21145  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROSENDO ROSALES-GONZALEZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-00-CR-472-1  
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August 2, 2001

Before JOLLY, DAVIS, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Rosendo Rosales-Gonzalez (Rosales) appeals the 57-month sentence he received following his guilty-plea conviction for illegally reentering the United States after deportation, in violation of 8 U.S.C. § 1326. He asserts that his felony convictions that resulted in his increased sentence under 8 U.S.C. § 1326(b) were an element of the offense that should have been charged in the indictment.

Rosales acknowledges that his argument is foreclosed by the Supreme Court's decision in Almendarez-Torres v. United States,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

523 U.S. 224 (1998), but he seeks to preserve the issue for Supreme Court review in light of the decision in Apprendi v. New Jersey, 530 U.S. 466 (2000). Apprendi did not overrule Almendarez-Torres. See Apprendi, 530 U.S. at 489-90; United States v. Dabeit, 231 F.3d 979, 984 (5th Cir. 2000), cert. denied, 121 S. Ct. 1214 (2001). Rosales's argument is foreclosed, and the judgment of the district court is AFFIRMED.