

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-50637
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

OSCAR MATA-HUERTA, also known as
Oscar Mata,

Defendant-Appellant;

Consolidated with
No. 00-50704

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BERNARDO GARZON-SERNA,

Defendant- Appellant;

Consolidated with
No. 00-50771

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

AMADOR GARAVITO-REYES, also known as
Amador Garavito,

Defendant-Appellant;

Consolidated with
No. 00-50774

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BERNARDO EDUARDO CASTANEDA-QUINTANA,
also known as Eduardo Quintana,

Defendant-Appellant.

- - - - -
Appeals from the United States District Court
for the Western District of Texas

- - - - -
February 15, 2001

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

PER CURIAM:*

Oscar Mata-Huerta, Bernardo Garzon-Serna, Amador Garavito-Reyes, Bernardo Eduardo Castaneda-Quintana (collectively the Defendants) appeal their sentences following their guilty plea convictions for illegal re-entry after deportation in violation of 8 U.S.C. § 1326. The Defendants argue that their sentences should not have exceeded the two-year maximum sentence under 8 U.S.C. § 1326(a). The Defendants acknowledge that their argument is foreclosed by Almendarez-Torres v. United States, 523 U.S. 224 (1998), but they seek to preserve the issue for Supreme Court review in light of Apprendi v. New Jersey, 530 U.S. 466.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The Defendants' argument is foreclosed by Almendarez-Torres,
523 U.S. at 235.

The Government has moved for a summary affirmance in lieu of
filing an appellee's brief. In its motion, the Government asks
that the judgments of the district court be affirmed and that an
appellee's brief not be required. The motion is granted.

AFFIRMED; MOTION GRANTED.