

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-20008  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARIO OSIRIS PINEDA,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-00-CR-529-1  
- - - - -

August 23, 2001

Before KING, Chief Judge, and POLITZ and PARKER, Circuit Judges.

PER CURIAM:\*

Mario Osiris Pineda appeals his conviction after a bench trial for illegal reentry of a previously deported alien in violation of 8 U.S.C. § 1326(a) and (b)(1). Pineda argues that the indictment was defective under the Fifth and Sixth Amendments because it did not allege general intent. Because Pineda did not challenge his indictment on this basis in the district court, we review whether it was constitutionally sufficient under a "maximum liberality" standard. See United States v. Guzman-Ocampo, 236 F.3d 233, 236 (5th Cir. 2000), cert. denied, 121

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

S. Ct. 2600 (2001). Pineda's indictment "fairly imported that his reentry was a voluntary act" and satisfied the constitutional requirements of a valid indictment. See id. at 236, 239 & n.13; United States v. Berrios-Centeno, 250 F.3d 294, 299 n.6 (5th Cir. 2001).

Pineda also argues that the district court erred when it denied his motion to suppress the prior deportation because it violated due process. He acknowledges that this issue is foreclosed by United States v. Benitez-Villafuerte, 186 F.3d 651 (5th Cir. 1999), cert. denied, 528 U.S. 1097 (2000), and raises it only to preserve it for Supreme Court review. Because Benitez-Villafuerte, 186 F.3d at 656-59, held that administrative deportation proceedings do not violate due process, Pineda's argument is without merit.

AFFIRMED.