

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-40430  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

POLICARPIO SANCHEZ-GONZALEZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. L-01-CR-1075-ALL  
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February 20, 2003

Before WIENER, EMILIO M. GARZA, and CLEMENT, Circuit Judges.

PER CURIAM:\*

Policarpio Sanchez-Gonzalez appeals from his conviction of illegal reentry following deportation. He contends that the magistrate judge was without jurisdiction or authority to conduct his rearraignment hearing because the district court did not formally refer the case to the magistrate judge, that commission of an aggravated felony is an element of illegal reentry following deportation after commission of an aggravated felony pursuant to *Apprendi v. New Jersey*, 530 U.S. 466 (2000), that

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

8 U.S.C. § 1326(b)(2) is unconstitutional on its face pursuant to *Apprendi*, and that his previous conviction of transporting illegal aliens was not an offense of alien-smuggling for profit and therefore was not subject to the 16-level adjustment provided by U.S.S.G. §2L1.2(b)(1)(A)(vii).

Sanchez did not object in the district court to the magistrate judge's exercise of authority. He waived his right to raise the procedural defect in his guilty plea proceeding as a basis for relief. *United States v. Bolivar-Munoz*, 313 F.3d 253, 256-57 (5th Cir. 2002).

Sanchez's contentions regarding *Apprendi* are foreclosed by the caselaw of this court. *United States v. Solis-Camposano*, 312 F.3d 164, 168 (5th Cir. 2002). Sanchez raises those issues to preserve them for review by the Supreme Court.

Finally, transporting aliens for profit is subject to the 16-level adjustment in U.S.S.G. §2L1.2(b)(1)(A)(vii). *Id.* at 167. Sanchez's contention to the contrary is unavailing.

AFFIRMED.