

August 20, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 03-20095  
Conference Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ARNULFO SAUCEDO-PEREZ,

Defendant-Appellant.

-----  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-02-CR-356-ALL  
-----

Before JONES, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Arnulfo Saucedo-Perez appeals his guilty-plea conviction for illegal reentry into the United States following an aggravated felony conviction in violation of 8 U.S.C. § 1326. For the first time on appeal, Saucedo-Perez argues that the sentencing provisions of 8 U.S.C. § 1326(b)(1) & (2) are unconstitutional in light of the Supreme Court's holding in Apprendi v. New Jersey, 530 U.S. 466 (2000).

Saucedo-Perez acknowledges that his argument is foreclosed

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

by the Supreme Court's decision in Almendarez-Torres v. United States, 523 U.S. 224 (1998), but he seeks to preserve the issue for Supreme Court review. 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). Saucedo-Perez's argument is foreclosed. The judgment of the district court is AFFIRMED.