IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 07-10527
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JORGE ALBERTO CORDOVA-BARRAZA

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:06-CR-353-ALL

Before REAVLEY, SMITH, and BARKSDALE, Circuit Judges.

PER CURIAM:[*]

Jorge Alberto Cordova-Barraza pleaded guilty to one charge of illegal reentry into the United States, and the district court sentenced him to serve 46 months in prison. Cordova-Barraza appeals his sentence. He argues that the district court plainly erred by determining that his prior conviction under 21 U.S.C. § 841(a)(1) was for a drug trafficking offense and by sentencing him in accordance with this determination. Cordova-Barraza argues that his prior conviction does not qualify as a drug trafficking offense as that term is used in

_____

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

U.S.S.G. § 2L1.2(b)(1)(A)(i). We disagree. A comparison of the statute and Guideline at issue shows that a conviction under § 841(a)(1) qualifies as a drug trafficking offense under § 2L1.2(b)(1)(A)(i). See § 841(a)(1), § 2L1.2, comment. (n.1(B)(iv)). Cordova-Barraza's argument to the contrary is unavailing.

In light of Apprendi v. New Jersey, 530 U.S. 466 (2000), Cordova-Barraza challenges the constitutionality of § 1326(b)'s treatment of prior felony and aggravated felony convictions as sentencing factors rather than elements of the offense that must be found by a jury. This court has held that this issue is "fully foreclosed from further debate." United States v. Pineda-Arrellano, 492 F.3d 624, 625 (5th Cir. 2007), petition for cert. filed (Aug. 28, 2007) (No. 07-6202).

The judgment of the district court is AFFIRMED.