

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

June 19, 2008

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No. 07-50923  
Conference Calendar

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Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

MINOR DAVID MEDINA-DOBLADO

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 2:07-CR-51-ALL

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Before JONES, Chief Judge, and JOLLY and DENNIS, Circuit Judges.

PER CURIAM:\*

Minor David Medina-Doblado appeals from his conviction and sentence for illegal reentry into the United States after deportation. Although he initially challenged the district court's application of U.S.S.G. § 2L1.2(b)(1)(B) to his sentence based upon his prior Colorado conviction, the Government subsequently supplemented the record with additional documentation regarding that conviction. In response, Medina-Doblado conceded that, under plain error

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

review, the supplemental documentation was sufficient to show that his sentence was correctly calculated.

In light of *Apprendi v. New Jersey*, 530 U.S. 466 (2000), Medina-Doblado challenges the constitutionality of 8 U.S.C. § 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 argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224, 235 (1998). *United States v. Pineda-Arellano*, 492 F.3d 624, 625 (5th Cir. 2007), cert. denied, 128 S. Ct. 872 (2008).

The district court's judgment is AFFIRMED.