

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

April 30, 2008

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No. 07-51200  
Conference Calendar

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Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

ROBERTO ANTONIO FERNANDEZ, JR

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 3:07-CR-1017-ALL

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Before REAVLEY, JOLLY, and GARZA, Circuit Judges.

PER CURIAM:\*

Appealing the Judgment in a Criminal Case, Roberto Antonio Fernandez, Jr., raises arguments challenging the constitutionality of the use of prior convictions pursuant to 21 U.S.C. §§ 841, 851, and 962 to increase his sentence. He concedes that his arguments are foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224, 235 (1998). See, e.g., *United States v. Mata*, 491 F.3d 237, 245 (5th Cir. 2007), cert. denied, 128 S. Ct. 1219 (2008); *United States v.*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Slaughter, 238 F.3d 580, 582-84 (5th Cir. 2000). The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.