

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

October 20, 2009

Charles R. Fulbruge III
Clerk

No. 08-41222

Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

FRANCISCO LUNA-SAMANO,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:08-CR-932-1

Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Francisco Luna-Samano appeals the sentence imposed following his conviction of unlawful reentry pursuant to 8 U.S.C. § 1326. Luna-Samano contends that the district court erred by imposing a crime of violence enhancement based on his prior Texas offense of indecency with a child under 17, a violation of § 21.11(a) of the Texas Penal Code. The Government moves for summary affirmance or, in the alternative, for an extension of time to file a brief.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

As Luna-Samano concedes, his argument is foreclosed by circuit precedent. *See United States v. Najera-Najera*, 519 F.3d 509, 511-12 (5th Cir.), *cert. denied*, 129 S. Ct. 139 (2008); *United States v. Zavala-Sustaita*, 214 F.3d 601, 607-08 (5th Cir. 2000). Accordingly, the motion for summary affirmance is GRANTED and the judgment of the district court is AFFIRMED. The Government's motion for an extension of time to file a brief is DENIED.