

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

United States Court of Appeals
Fifth Circuit

FILED

August 24, 2009

Charles R. Fulbruge III
Clerk

No. 08-41285
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JULIO CESAR PEGUEROS-AGUILAR,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:08-CR-562-ALL

Before KING, STEWART, and HAYNES, Circuit Judges.

PER CURIAM:*

Julio Cesar Pegueros-Aguilar (Pegueros) appeals the sentence he received after he pleaded guilty to being found illegally in the United States following deportation, in violation of 8 U.S.C. § 1326. Pegueros argues that the district court erred when it treated his prior South Carolina conviction for Assault and Battery of a High and Aggravated Nature (ABHAN) as a crime of violence and enhanced his base offense level by 16 under U.S.S.G. § 2L1.2(b)(1)(A)(ii). This court held in *United States v. Guerrero-Robledo*, 565 F.3d 940, 946 (5th Cir.),

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

petition for cert. filed (July 7, 2009) (No. 09-5206), under both plain error and de novo review, that ABHAN is a crime of violence for § 2L1.2(b)(1)(A)(ii) purposes because it constitutes the enumerated offense of aggravated assault.

AFFIRMED.