

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

No. 14-20383
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 8, 2015

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JUAN OLIVEROS MEJIA, also known as Juan Mejia Oliveros,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:14-CR-8-1

Before DAVIS, CLEMENT, and COSTA, Circuit Judges.

PER CURIAM:*

Juan Oliveros Mejia pleaded guilty to illegal reentry following deportation subsequent to an aggravated felony and was sentenced to 40 months in prison. Mejia and the Government agree that Mejia's prior conviction for sexual assault pursuant to Texas Penal Code § 22.011 does not qualify as an "aggravated felony" for purposes of 8 U.S.C. § 1326(b)(2), which carries a 20-year statutory maximum. The parties disagree as to whether the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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proper remedy is remand for the district court to enter a modified judgment or for this court itself to modify and affirm the judgment.

We agree that there was error. *See Rodriguez v. Holder*, 705 F.3d 207, 215-16 (5th Cir. 2013). The conviction and sentence imposed by the district court are AFFIRMED. However, we REMAND to the district court for the limited purpose of correcting the judgment to reflect the correct offense of conviction as under § 1326(b)(1). *See United States v. Johnson*, 588 F.2d 961, 964 (5th Cir. 1979).