

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

United States Court of Appeals
Fifth Circuit

FILED

August 18, 2015

Lyle W. Cayce
Clerk

No. 14-41275
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE ANTONIO HERNANDEZ,

Defendant-Appellant

Appeals from the United States District Court
for the Southern District of Texas
USDC No. 5:14-CR-277-1

Before JOLLY, GRAVES, and COSTA, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Jose Antonio Hernandez presents an argument that is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224, 228, 235 (1998), which held that convictions used to enhance a sentence under 8 U.S.C. § 1326(b)(2) need not be set forth in the indictment. The motion for summary affirmance is GRANTED, the alternative

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.