

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

United States Court of Appeals  
Fifth Circuit

**FILED**

February 24, 2015

Lyle W. Cayce  
Clerk

---

No. 14-50526  
Conference Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CESAR GARCIA-HERNANDEZ, also known as Cesar Garcia, also known as Empedorles Vega, also known as Cesar Garcia-Sutuy, also known as Cesar Evaristo Garcia-Sutuy,

Defendant-Appellant

---

Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 1:14-CR-56-1

---

Before DAVIS, ELROD, and COSTA, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Cesar Garcia-Hernandez presents an argument that he concedes 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

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 14-50526

indictment. Accordingly, the Government's motion for summary affirmance is GRANTED, its alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.