

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

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No. 15-50251  
Conference Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

February 17, 2016

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

GERMAN RODRIGUEZ-CALDERON,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 2:14-CR-944-1

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Before DAVIS, SMITH, and PRADO, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, German Rodriguez-Calderon raises 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 motion for

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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