

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-50687  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE DAVID SANCHEZ-MELGAR, also known  
as Jose David Ramirez-Sanchez,

Defendant-Appellant.

- - - - -  
Appeal from the United States District Court  
for the Western District of Texas  
USDC No. A-96-CR-67  
- - - - -  
February 21, 1997

Before SMITH, EMILIO M. GARZA, and PARKER, Circuit Judges.

PER CURIAM:\*

Jose David Sanchez-Melgar appeals his conviction and sentence for illegal re-entry following deportation in violation of 8 U.S.C. § 1326. Sanchez-Melgar argues that a prior felony conviction is an element of the offense which must be alleged and proved to support an enhanced sentence under § 1326(b)(1). This court has held that subsection § 1326(b) is a sentencing enhancement provision rather than a separate offense. United States v. Vasquez-Olvera, 999 F.2d 943, 945-47 (5th Cir. 1993), cert. denied, 114 S. Ct. 889 (1994).

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

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AFFIRMED.