

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-40067
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JESUS SAN MIGUEL-CRUZ,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. B-96-CR-236-1
- - - - -

October 23, 1997

Before POLITZ, Chief Judge, and WIENER and DENNIS, Circuit Judges.

PER CURIAM:*

Jesus San Miguel-Cruz appeals his guilty-plea conviction and sentence for reentry after deportation in violation of 8 U.S.C. § 1326(b)(2). He argues that he was charged with and pleaded guilty to simple reentry under § 1326(a) but that he was sentenced as if he had pleaded guilty to reentry following a felony conviction pursuant to § 1326(b)(2). His argument is foreclosed by this court's opinion in United States v. Vasquez-Olvera, 999 F.2d 943, 946-47 (5th Cir. 1993).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

AFFIRMED.