

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-50378
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANDRES CARLOS BASURTO-GOMEZ,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-96-CR-373-1
- - - - -

December 10, 1997

Before BARKSDALE, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Andres Carlos Basurto-Gomez's motion to stay this case pending the Supreme Court's decision in United States v. Almendarez-Torres, 113 F.3d 515 (5th Cir.), cert. granted, 117 S. Ct. 1333 (1997) is DENIED.

Basurto appeals his guilty-plea conviction and sentence for reentry after deportation in violation of 8 U.S.C. § 1326. 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

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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).

AFFIRMED.