

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-50468  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MIGUEL ANGEL REYNERO-LOPEZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. SA-97-CR-39-1  
- - - - -

February 12, 1998

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

PER CURIAM:\*

Miguel Angel Reynero-Lopez appeals his guilty-plea conviction and sentence for reentry after deportation in violation of 8 U.S.C. § 1326. Reynero-Lopez has filed a motion to stay his appeal pending the Supreme Court's decision in United States v. Almendarez-Torres, 113 F.3d 515 (5th Cir. 1996), cert. granted, 117 S. Ct. 1333 (1997). Reynero-Lopez's motion to stay his appeal is DENIED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Reynero-Lopez argues that he was charged with and pleaded guilty to simple reentry under § 1326(a) and that he could not be sentenced under § 1326(b) because the indictment did not allege that he had a prior aggravated felony conviction. His argument is foreclosed by this court's decision in United States v. Vasquez-Olvera, 999 F.2d 943, 946-47 (5th Cir. 1993).

MOTION DENIED. AFFIRMED.