

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-50525
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DAGOBERTO TERRAZAS-CHAVEZ,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-96-CR-191
- - - - -

June 2, 1998

Before KING, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:*

Dagoberto Terrazas-Chavez appeals his guilty-plea conviction for illegal reentry of the United States after deportation in violation of 8 U.S.C. § 1326. Terrazas-Chavez argues that his prior burglary conviction was an element of the offense and should have been alleged in the indictment. The Supreme Court has rejected this argument. Almendarez-Torres v. United States, 118 S. Ct. 1219, 1226 (1998).

Terrazas-Chavez argues that the district court abused its

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

discretion in failing to order sua sponte a hearing to determine whether he was mentally competent at the time he entered his guilty plea. We have reviewed the record and have determined that the district court did not abuse its discretion in failing to order sua sponte a hearing to retroactively determine Terrazas-Chavez's mental competence at the time he entered his guilty plea. See United States v. Davis, 61 F.3d 291, 303-04 (5th Cir. 1995).

AFFIRMED.