

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-50577
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RAFAEL SALAZAR-NAVARRO,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-96-CR-331
- - - - -

December 10, 1997

Before BARKSDALE, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Rafael Salazar-Navarro appeals from his sentence for illegal reentry into the United States after his deportation in violation of 8 U.S.C. § 1326. His motion for a stay of 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), is DENIED.

Salazar-Navarro argues that he was charged with and pleaded guilty to illegal reentry under § 1326(a) and that he could not

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

be sentenced under § 1326(b)(2) because the indictment failed to allege that he had a prior aggravated felony conviction. 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.