

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-50692
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARTIN ESTRADA-RUEDA

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. DR-97-CR-46
- - - - -

February 10, 1998

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

PER CURIAM:*

Martin Estrada-Rueda appeals his sentence following a guilty plea for reentry after deportation in violation of 8 U.S.C. § 1326. Estrada-Rueda argues that he was charged with and pleaded guilty to simple reentry following deportation 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, 945-47 (5th Cir. 1993).

AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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