

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-10798  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JESUS ANTONIO ARBALLO-MARQUEZ, also known  
as Jesus Arballo-Marquez,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:00-CR-99-1-D  
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February 15, 2001

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

PER CURIAM:\*

Jesus Antonio Arballo-Marquez appeals his sentence following his guilty plea conviction for illegal re-entry after deportation in violation of 8 U.S.C. § 1326. Arballo-Marquez argues that his sentence should not have exceeded the two-year maximum sentence under 8 U.S.C. § 1326(a). Arballo-Marquez acknowledges that his argument is foreclosed by Almendarez-Torres v. United States, 523 U.S. 224 (1998), but he seeks to preserve the issue for Supreme

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Court review in light of Apprendi v. New Jersey, 530 U.S. 466 (2000).

Arballo-Marquez's argument is foreclosed by Almendarez-Torres, 523 U.S. at 235.

AFFIRMED.