

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-40738
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALFREDO QUINONES-MONDRAGON,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. B-00-CR-104-1
- - - - -

February 15, 2001

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

PER CURIAM:*

Alfredo Quinones-Mondragon (Quinones) appeals his guilty-plea conviction and sentence for illegal reentry after deportation in violation of 8 U.S.C. § 1326(b)(2). Quinones argues that the indictment was deficient for failing to allege his prior felony conviction as an element of the offense. Thus, he contends that he was improperly sentenced based on this prior conviction. Quinones concedes that this argument is foreclosed by the Supreme Court's decision in Almendarez-Torres v. United States, 523 U.S. 224 (1998), and raises it solely to preserve

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Supreme Court review. As we recently noted, the Supreme Court expressly declined to overrule Almendarez-Torres in Apprendi v. New Jersey, 530 U.S. 466 (2000), thus we are bound to follow this precedent. See United States v. Dabeit, 231 F.3d 979, 984 (5th Cir. 2000), petition for cert. filed, (U.S. Jan. 26, 2001)(No. 00-8299).

AFFIRMED.