

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 00-41189  
Summary Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANTONIO ARROYO-JUAREZ,  
also known as Rogelio Ortega-Lopez,

Defendant-Appellant.

-----  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. B-00-CR-132-1  
-----

June 7, 2001

Before REAVLEY, DeMOSS and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Antonio Arroyo-Juarez ("Arroyo") appeals his conviction for illegal reentry after deportation, pursuant to 8 U.S.C. § 1326. He contends that the Government failed to allege his prior aggravated felony conviction in his indictment. He also contends that the district court erred by "double counting" his aggravated felony conviction to increase both his offense level and criminal history score.

Arroyo concedes that his first contention in this appeal is foreclosed by the Supreme Court's decision in Almendarez-Torres

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

v. United States, 523 U.S. 224, 235 (1998), and that he raises the issue solely to preserve it for review by the Supreme Court. Arroyo's second contention is without merit. See United States v. Hawkins, 69 F.3d 11, 14 (5th Cir. 1995). This court affirms the judgment of the district court.

AFFIRMED.