

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-41465
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JORGE GUADALUPE OLIVARES-GONZALEZ,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. L-00-CR-809-ALL
- - - - -

August 6, 2001

Before JOLLY, DAVIS and BENAVIDES, Circuit Judges.

PER CURIAM:*

Jorge Guadalupe Olivares-Gonzalez (Olivares) appeals his sentence following a guilty plea for unlawful presence in the United States. See 8 U.S.C. § 1326(a) & (b)(2). He argues that his prior state felony conviction for unauthorized use of a motor vehicle should not have been deemed a crime of violence pursuant to 18 U.S.C. § 16 and should not have constituted an aggravated felony for sentencing purposes under U.S.S.G. § 2L1.2(b)(1)(A).

Olivares recognizes that his argument is foreclosed by *United States v. Galvan-Rodriguez*, 169 F.3d 217 (5th Cir.), cert.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

denied, 120 S. Ct. 100 (1999), but he raises the issue to preserve it for further review. *Galvan-Rodriguez* forecloses Olivares' argument on appeal. See *Galvan-Rodriguez*, 169 F.3d at 219-20. Accordingly his sentence is AFFIRMED.