

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-50059
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FELICIANO MORALES-BARCENAS,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. DR-99-CR-568-1

October 19, 2000

Before SMITH, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Feliciano Morales-Barcenas appeals his sentence following his guilty plea conviction for illegal re-entry after deportation in violation of 8 U.S.C. § 1326(a) and (b). Morales-Barcenas argues that his prior felony conviction was an element of the offense of his conviction. Morales-Barcenas 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 Court review in light of Apprendi v. New Jersey, 120 S. Ct. 2348 (2000).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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

AFFIRMED.