

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-50352  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARIO ALBERTO VIRAMONTES-URGUIDI, also known as Gabriel Razas,  
also known as Martin Rivas-Guizar, also known as Juan Pablo  
Maldonado, also known as Rene Ortega,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. MO-99-CR-55-1  
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February 15, 2001

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

PER CURIAM:\*

Viramontes-Urguidi appeals his sentence after pleading guilty to being found present in the United States following deportation in violation of 8 U.S.C. § 1326. Relying on the Supreme Court's recent decision in Apprendi v. New Jersey, 120 S. Ct. 2348 (2000), he argues that his sentence is illegal because a prior aggravated-felony conviction used for sentence-enhancement purposes was not alleged in his indictment. As Viramontes-Urguidi acknowledges, his argument remains foreclosed by

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Almendarez-Torres v. United States, 523 U.S. 224 (1998). See  
United States v. Dabeit, 231 F.3d 979, 984 (5th Cir. 2000),  
petition for cert. filed, (Jan. 26, 2001) (No. 00-8299).

Accordingly, the district court's judgment is AFFIRMED.