

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-20337
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MANUEL ADRIAN MORENO-RAMIREZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-00-CR-828-ALL

October 26, 2001

Before WIENER, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Manuel Adrian Moreno-Ramirez ("Moreno") appeals his guilty-plea conviction and sentence for being found in the United States after having been previously deported subsequent to an aggravated-felony conviction, in violation of 8 U.S.C. § 1326. He argues that the district court erred in applying a 16-level "aggravated felony" increase, under U.S.S.G. § 2L1.2(b)(1)(A), because the rule of lenity required the court to interpret the term "drug trafficking crime" to exclude his state conviction for mere possession of cocaine.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The district court did not err in applying U.S.S.G. § 2L1.2(b)(1)(A). As Moreno acknowledges, his argument is foreclosed by this court's decision in United States v. Hinojosa-Lopez, 130 F.3d 691, 693-94 (5th Cir. 1997); see also United States v. Hernandez-Avalos, 251 F.3d 505, 508-09 (5th Cir. 2001), cert. denied, ___ S. Ct. ___ (U.S. Oct. 1, 2001, No. 01-5773), 2001 WL 992061.

AFFIRMED.