

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-40418
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EDGAR CASTILLO-LUCIO, also known as
Jose Lopez Hernandez,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. B-00-CR-488-1

April 11, 2002

Before SMITH, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:*

Edgar Castillo-Lucio appeals the sentence imposed following his conviction for illegally reentering the United States after having been deported, a violation of 8 U.S.C. § 1326. He argues that the district court erred by concluding that his prior conviction for unauthorized use of a motor vehicle was an aggravated felony. However, he did not raise his argument in the district court. Castillo-Lucio acknowledges that this court has

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

held that the offense is an aggravated felony, and avers that he is raising the issue solely to preserve it for further review.

This court rejected the precise argument raised by Castillo-Lucio in United States v. Galvan-Rodriguez, 169 F.3d 217 (5th Cir. 1999). Galvan-Rodriguez is binding precedent; therefore, absent a decision by the Supreme Court or en banc consideration by this Court, it cannot be overturned by another panel of this court. See United States v. Arce, 118 F.3d 335, 338-39 (5th Cir. 1997). AFFIRMED.