

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-40758
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE DANIEL RODRIGUEZ-GARCIA,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. L-00-CR-1018-ALL

April 11, 2002

Before SMITH, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:*

Jose Daniel Rodriguez-Garcia (Rodriguez) appeals the 27-month sentence imposed following his plea of guilty to a charge of being found in the United States after deportation, a violation of 8 U.S.C. § 1326.

He argues that his indictment violates the Fifth and Sixth Amendments because it does not allege general intent. As Rodriguez concedes, however, his argument is foreclosed by Fifth Circuit precedent. See United States v. Guzman-Ocampo, 236 F.3d 233, 237-39 (5th Cir. 2000), cert. denied, 121 S. Ct. 2600

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

(2001); see also United States v. Berrios-Centeno, 250 F.3d 294, 297-300 (5th Cir.), cert. denied, 122 S. Ct. 288 (2001). He raises the argument only to preserve it for Supreme Court review.

The district court's judgment is AFFIRMED.