

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-50944
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ARTURO RAMIREZ-JUAREZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-01-CR-206-1-DB

August 21, 2002

Before HIGGINBOTHAM, DAVIS, and PARKER, Circuit Judges.

PER CURIAM:*

Arturo Ramirez-Juarez appeals his guilty plea conviction and sentence for illegal reentry into the United States after having been deported. 8 U.S.C. § 1326. Ramirez contends that a 16-level increase in his offense level based on a prior aggravated-felony conviction deprived him of due process and thus constituted a misapplication of the sentencing guidelines.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Ramirez does not contend that the prior felony conviction should have been alleged in the indictment. Rather, he successfully moved to have aggravated-felony language stricken from the indictment on grounds that it was superfluous under Almendarez-Torres v. United States, 523 U.S. 224 (1998). Ramirez was fully aware that he faced an upward adjustment for the prior aggravated felony, and he was afforded, and took advantage of, opportunities to challenge the adjustment in his objections to the Presentence Report and at his sentencing hearing. Ramirez received all the process that was due him.

The judgment of the district court is AFFIRMED.