

April 21, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-41351  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARIO CAMACHO-OROZCO,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. B-03-CR-420-1  
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Before JOLLY, JONES, and SMITH, Circuit Judges.

PER CURIAM:\*

Mario Camacho-Orozco (Camacho) appeals the sentence imposed following his guilty-plea conviction for being an alien unlawfully found in the United States following deportation after having been previously convicted of an aggravated felony, in violation of 8 U.S.C. § 1326. For the first time on appeal, Camacho argues that the sentencing provisions of 8 U.S.C. § 1326(b)(1) and (b)(2) are unconstitutional in light of Apprendi v. New Jersey, 530 U.S. 466 (2000). Camacho acknowledges that

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

his argument is foreclosed by Almendarez-Torres v. United States, 523 U.S. 224 (1998), but he seeks to preserve the issue for Supreme Court review. Apprendi did not overrule Almendarez-Torres. See Apprendi, 530 U.S. at 489-90. Accordingly, the judgment of the district court is AFFIRMED.