

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

August 11, 2009

Charles R. Fulbruge III  
Clerk

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No. 07-51091  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE LOPEZ-SOLIS, also known as Jose Luis Lopez,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 3:07-CR-540-1

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Before REAVLEY, JOLLY, and OWEN, Circuit Judges.

PER CURIAM:\*

Jose Lopez-Solis pleaded guilty to illegal reentry after deportation. On appeal, Lopez-Solis challenges the district court's characterization of his prior Texas conviction of unauthorized use of a motor vehicle as an aggravated felony for sentencing purposes. The Supreme Court recently modified the interpretive framework for determining crimes of violence in *Begay v. United States*, 128 S. Ct. 1581 (2008), and *Chambers v. United States*, 129 S. Ct. 687 (2009), to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

require purposeful violent and aggressive conduct as an essential element of a crime of violence. As unauthorized use of a motor vehicle does not have such conduct as an essential element, Lopez-Solis's sentence is based on a procedural error and is VACATED. The case is REMANDED for resentencing.

The Government's motion filed January 17, 2008 is now moot.