

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-40473
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSÉ FRANCISCO HERNANDEZ-MADURAN,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. B-97-CR-9-1

- - - - -
February 10, 1998

Before SMITH, EMILIO M. GARZA, and DeMOSS, Circuit Judges.

PER CURIAM:*

José Francisco Hernandez-Maduran appeals his guilty-plea conviction and sentence for reentry after deportation in violation of 8 U.S.C. § 1326. He argues that he was charged with and pleaded guilty to simple reentry under § 1326(a) and that he could not be sentenced under § 1326(b)(2) because the indictment did not allege that he had a prior aggravated-felony conviction. His argument is foreclosed by this court's opinion in *United States v. Vasquez-Olvera*, 999 F.2d 943, 946-47 (5th Cir. 1993).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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AFFIRMED.