

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40505
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CARLOS DE LEON-CASTANEDA,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. M-97-CR-376-1
- - - - -

October 22, 1998

Before POLITZ, Chief Judge, and WIENER and DENNIS, Circuit Judges.

PER CURIAM:*

Carlos De Leon-Castaneda appeals the sentence imposed by the district court following his guilty-plea conviction of illegal reentry into the United States following deportation, a violation of 8 U.S.C. § 1326. He argues for the first time on appeal that the district court erred and acted in violation of his right to due process by imposing a sixteen-point enhancement pursuant to U.S.S.G. § 2L1.2(b)(1)(A) for his Texas felony conviction for possession of marijuana.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

We have reviewed the appellate record and the briefs of the parties and find that the district court did not err in applying § 2L1.2(b)(1)(A), see United States v. Hinojosa-Lopez, 130 F.3d 691, 694 (5th Cir. 1997), and that De Leon-Castaneda's constitutional argument, is unfounded. See United States v. Pearson, 910 F.2d 221, 223 (5th Cir. 1990); United States v. Calverley, 37 F.3d 160, 162-64 (5th Cir. 1994)(en banc).

AFFIRMED.