

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-40966
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE ULISES FERNANDEZ-GARCIA,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. M-97-CR-83-1
- - - - -

February 11, 1998

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

PER CURIAM:*

Jose Ulises Fernandez-Garcia appeals his sentence for unlawfully entering the United States after having been previously deported. Fernandez-Garcia argues that his sentence was improperly enhanced pursuant to Title 8 U.S.C. § 1326(b), based upon his prior commission of an aggravated felony, because the charging indictment did not mention the aggravated felony. His argument is foreclosed by United States v. Vasquez-Olvera, 999 F.2d 943 (5th Cir. 1993).

AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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