

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-41014  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RENE GARCIA-PEREZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. M-97-CR-135-1  
- - - - -

February 12, 1998

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

PER CURIAM:\*

Rene Garcia-Perez appeals his sentence following a guilty plea for reentry after deportation in violation of 8 U.S.C. § 1326. Perez argues that he could not be sentenced under § 1326(b) because the indictment did not allege that he had a prior felony conviction. His argument is foreclosed by this court's decision in United States v. Vasquez-Olvera, 999 F.2d 943, 945-47 (5th Cir. 1993).

AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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