

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

July 11, 2008

No. 07-51371
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JOSE ARTURO ZEPEDA-CARDENAS, also known as Arturo Contreras-Zepeda

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:07-CR-1339-ALL

Before JOLLY, DENNIS and PRADO, Circuit Judges.

PER CURIAM:*

Jose Arturo Zepeda-Cardenas, a/k/a Arturo Contreras-Zepeda, pleaded guilty to illegal reentry after deportation and was sentenced to 24 months of imprisonment and two years of supervised release. Zepeda-Cardenas raises arguments that are foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224, 235 (1998), which held that 8 U.S.C. § 1326(b)(2) is a penalty provision and not a separate criminal offense. *United States v. Pineda-*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Arrellano, 492 F.3d 624, 625 (5th Cir. 2007), cert. denied, 128 S. Ct. 872 (2008). The Government's motion for summary affirmance is GRANTED, the motion for extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.