

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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No. 17-10016  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit  
**FILED**  
November 10, 2017  
Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

versus

HECTOR ARTURO REA-PONCE,

Defendant–Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
No. 3:16-CR-193-1

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Before HIGGINBOTHAM, JONES, and SMITH, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Hector Rea-Ponce raises an

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 17-10016

argument that is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224, 228, 235 (1998), which held that convictions used to enhance a sentence under 8 U.S.C. § 1326(b)(2) need not be set forth in the indictment. Accordingly, the government's unopposed motion for summary affirmance is GRANTED, its alternative motion for an extension of time to file its brief is DENIED as unnecessary, and the judgment is AFFIRMED.