

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 06-13590
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT DEC 12, 2006 THOMAS K. KAHN CLERK

D. C. Docket No. 06-00004-CR-ORL-18-DAB

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SELVIN AMILCAR REYES-ANTUNEZ,
a.k.a. Juan Reyes-Castro,
a.k.a. Carlos Cartegena-Antunez,
a.k.a. Jaret Reyes-Llamer,
a.k.a. Mario Reyes,
a.k.a. Mario Reyes-Almendarez,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida

(December 12, 2006)

Before BLACK, CARNES and MARCUS, Circuit Judges.

PER CURIAM:

Selvin Amilcar Reyes-Antunez appeals his 27-month sentence for illegal re-entry into the United States after deportation, in violation of 8 U.S.C. § 1326(a), (b)(2). He contends that § 1326(a) creates an offense for illegal re-entry into the United States after deportation and that § 1326(b)(2) creates a separate offense for illegal re-entry into the United States after deportation following conviction for an aggravated felony. Under his view unless the prior conviction is alleged in the indictment the court may not apply the maximum sentence provided in § 1326(b)(2) .

Presenting this issue to preserve it for further review, Reyes-Antunez concedes that his argument is contrary to controlling authority. And it is. See Almendarez-Torres v. United States, 523 U.S. 224, 226-227, 118 S.Ct. 1219, 1222, (1998); Apprendi v. New Jersey, 530 U.S. 466, 489-90, 120 S.Ct. 2348, 2362 (2000); United States v. Guadamuz-Solis, 232 F.3d 1363 (11th Cir. 2000); United States v. Shelton, 400 F.3d 1325, 1329 (11th Cir. 2005); United States v. Gibson, 434 F.3d 1234, 1246 (11th Cir. 2006).

AFFIRMED.