

United States Court of Appeals  
Fifth Circuit**FILED**

April 17, 2007

Charles R. Fulbruge III  
ClerkIN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 06-41181  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ENRIQUE YANEZ-ZUNIGA,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 6:06-CR-6-ALL  
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Before HIGGINBOTHAM, BENAVIDES, and PRADO, Circuit Judges.

PER CURIAM:\*

Enrique Yanez-Zuniga (Yanez) appeals the sentence imposed following his guilty-plea conviction for illegal reentry after deportation. Yanez argues that the district court erroneously characterized his state court convictions for simple possession of controlled substances as aggravated felonies under U.S.S.G. § 2L1.2(b)(1)(C). We review Yanez's challenge to the district court's application of the Sentencing Guidelines de novo. See United States v. Villegas, 404 F.3d 355, 359 (5th Cir. 2005).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Given the Supreme Court's recent decision in Lopez v. Gonzales, 127 S. Ct. 625 (2006), Yanez's argument has merit. See United States v. Estrada-Mendoza, 475 F.3d 258, 260-61 (5th Cir. 2007). Accordingly, Yanez's sentence is vacated, and the case is remanded for resentencing in light of Lopez.

CONVICTION AFFIRMED; SENTENCE VACATED AND REMANDED FOR RESENTENCING.