

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

United States Court of Appeals
Fifth Circuit

FILED

November 21, 2012

Lyle W. Cayce
Clerk

No. 10-51119

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MIGUEL RODRIGUEZ-PRIETO,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:10-CR-193-1

Before REAVLEY, JOLLY, and DAVIS, Circuit Judges.

PER CURIAM:*

Miguel Rodriguez-Prieto (Rodriguez) appeals his 87-month sentence for illegal reentry under 8 U.S.C. § 1326. He asserts that the district court plainly erred by assigning a criminal history point under U.S.S.G. § 4A1.1(f) (2009) under the theory that the sentence for one of his North Carolina crimes of violence did not receive any points because it was counted together with the sentence imposed for the other North Carolina offense under U.S.S.G. § 4A1.2(a)(2). He asserts that the two offenses were consolidated in a single

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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judgment that produced a single sentence under North Carolina General Statutes § 15A-1340.15(b).

The North Carolina procedure does not affect the Guideline § 4A1.2(a)(2) direction that “any prior sentence covered by (A) or (B)” is counted as a single sentence. It follows that, whether the district judge added one history point because of § 4A1.1(f) or three more for the second crime of violence, there was no error for defendant’s complaint.

The judgment of the district court is **AFFIRMED**.