

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

United States Court of Appeals
Fifth Circuit

FILED

April 25, 2012

Lyle W. Cayce
Clerk

No. 11-20340
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

NICOLAS ANTONIO GUTIERREZ LOPEZ, also known as Nicolas A. Gutierrez,
also known as Nicolas Antonio Gutierrez, also known as Nicolas Antonio
Gutierrez-Lopez,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:10-CR-761-1

Before REAVLEY, SMITH, and PRADO, Circuit Judges.

PER CURIAM:*

Nicolas Antonio Gutierrez Lopez (Gutierrez) pleaded guilty of being present in the United States illegally following deportation after conviction of an aggravated felony. In this appeal, Gutierrez contends that the district court erred in increasing his Sentencing Guidelines offense level by 16 levels based on its determination that Gutierrez's 2007 Texas conviction of aggravated assault

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 11-20340

with a deadly weapon constituted a crime of violence under U.S.S.G. § 2L1.2(b)(1)(A)(ii).

Because Gutierrez's Texas conviction of aggravated assault qualified as a conviction for the enumerated offense of aggravated assault, the district court did not err in imposing the 16-level enhancement. *See United States v. Guillen-Alvarez*, 489 F.3d 197, 199-201 (5th Cir. 2007); *see also* U.S.S.G. § 2L1.2, comment. (n.1(B)(iii)). The judgment is AFFIRMED.