

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

United States Court of Appeals
Fifth Circuit

FILED

July 22, 2013

Lyle W. Cayce
Clerk

No. 12-40190

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

EUGENIO MARQUEZ-DELGADO,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:11-CR-1388-1

Before STEWART, Chief Judge, and KING and CLEMENT, Circuit Judges.

PER CURIAM:*

Eugenio Marquez-Delgado (Marquez) appeals the sentence imposed by the district court following his guilty plea conviction of being found in the United States illegally. He challenges only the 16-level enhancement that he received pursuant to U.S.S.G. § 2L1.2(b)(1)(A)(ii) because he had been previously deported following his prior conviction for sexual assault of a child under Texas Penal Code § 22.011(a)(2).

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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The district court's characterization of a prior offense as a crime of violence is a question of law that this court reviews de novo. *United States v. Santiesteban-Hernandez*, 469 F.3d 376, 378 (5th Cir. 2006). This court has squarely rejected Marquez's arguments that a conviction under § 22.011(a)(2) is not a crime of violence because that statute criminalizes behavior that is broader than the generic, contemporary definitions of sexual abuse of a minor and statutory rape. *United States v. Rodriguez*, 711 F.3d 541, 562-63 & n.28 (5th Cir. 2013) (en banc), *petition for cert. filed* (June 6, 2013) (No. 12-10695). Accordingly, the judgment of the district court is AFFIRMED.