

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

United States Court of Appeals
Fifth Circuit

FILED

June 25, 2013

Lyle W. Cayce
Clerk

No. 12-40829
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

OSWALDO RAMOS-MURRILLO,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:12-CR-134-1

Before WIENER, ELROD, and GRAVES, Circuit Judges.

PER CURIAM:*

Defendant-Appellant Oswaldo Ramos-Murrillo (Ramos) appeals the 46-month sentence imposed following his conviction for illegal reentry. He contends that the district court erred in enhancing his sentence for a crime of violence under United States Sentencing Guidelines § 2L1.2(b)(1)(A)(ii) based on his Texas conviction under Texas Penal Code § 22.021 for aggravated sexual assault of a child under 14. He also contends that the district court erred by refusing to award a three-level reduction for acceptance of responsibility under United

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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States Sentencing Guidelines § 3E1.1(b) based on the government's failure to move for the reduction because he refused to waive his right of appeal.

Ramos's contentions are foreclosed by our decisions in *United States v. Rodriguez*, 711 F.3d 541, 562 n.28 (5th Cir. 2013) (en banc), and *United States v. Newson*, 515 F.3d 374, 376-79 (5th Cir. 2008).

The judgment of the district court is AFFIRMED.