

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

United States Court of Appeals
Fifth Circuit

FILED

June 20, 2013

Lyle W. Cayce
Clerk

No. 12-40859

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CARLOS SAUL PAZ-LAZO,

Defendant-Appellant

Appeals from the United States District Court
for the Southern District of Texas
USDC No. 1:12-CR-241-1

Before REAVLEY, DAVIS, and OWEN, Circuit Judges.

PER CURIAM:*

It is undisputed that the written judgment convicting Carlos Saul Paz-Lazo of unlawful presence in the United States incorrectly states that he previously was deported following conviction for an aggravated felony. The parties disagree as to whether the proper remedy under 28 U.S.C. § 2106 is remand for the district court to enter a modified judgment or for this court itself to modify and affirm the judgment. “The best reading of [§ 2106] confers discretion either to reform the judgment or to remand for the district to do so.”

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 12-40859

United States v. Hermoso, 484 F. App'x 970, 973 (5th Cir. 2012) (unpublished but persuasive). The judgment is AFFIRMED as modified to reflect Paz-Lazo's conviction under 8 U.S.C. § 1326(a) and (b)(1) as an alien unlawfully found in the United States after deportation, having previously been convicted of a felony.