

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

United States Court of Appeals
Fifth Circuit

FILED

February 24, 2015

Lyle W. Cayce
Clerk

No. 14-50526
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CESAR GARCIA-HERNANDEZ, also known as Cesar Garcia, also known as Empedorles Vega, also known as Cesar Garcia-Sutuy, also known as Cesar Evaristo Garcia-Sutuy,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:14-CR-56-1

Before DAVIS, ELROD, and COSTA, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Cesar Garcia-Hernandez presents an argument that he concedes is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224, 228, 235 (1998), which held that convictions used to enhance a sentence under 8 U.S.C. § 1326(b)(2) need not be set forth in the

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 14-50526

indictment. Accordingly, the Government's motion for summary affirmance is GRANTED, its alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.