

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

No. 16-41673
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
August 22, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MANUEL RAMIRO MARTINEZ-RIVERA,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:16-CR-488-1

Before HIGGINBOTHAM, JONES, and SMITH, Circuit Judges.

PER CURIAM:*

Manuel Ramiro Martinez-Rivera pleaded guilty to illegally reentering the country after he was deported, and he received a 57-month sentence. On appeal, Martinez-Rivera contends that the district court erred by imposing a 16-level enhancement under U.S.S.G. § 2L1.2(a)(1)(A)(ii) (2015) based on a finding that his prior Texas aggravated assault conviction was a crime of

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 16-41673

violence. We review this determination de novo. *United States v. Alay*, 850 F.3d 221, 223 (5th Cir. 2017).

Acknowledging that in *United States v. Guillen-Alvarez*, 489 F.3d 197, 198 (5th Cir. 2007), this court held that Texas aggravated assault is an enumerated crime of violence for purposes of § 2L1.2(a)(1)(A)(ii) (2015), Martinez-Rivera argues that the court's conclusion has been called into question by the reasoning of other circuit courts. However, one panel of this court may not overrule the decision of another absent an intervening change in the law, for instance through a superseding decision of the Supreme Court or this court sitting en banc. *United States v. Traxler*, 764 F.3d 486, 489 (5th Cir. 2014). Moreover, this court has recently reaffirmed the holding in *Guillen-Alvarez*. *United States v. Shepherd*, 848 F.3d 425, 428 (5th Cir. 2017).

The district court's judgment is AFFIRMED.