

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

United States Court of Appeals
Fifth Circuit

FILED

April 19, 2012

Lyle W. Cayce
Clerk

No. 10-20646

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

EDUARDO RODRIGUEZ-VELA, also known as Eduardo Rodriguez Vela, also known as Eduardo Vela Rodriguez, also known as Eduardo Rodriguez-Vega, also known as Eduardo Rodriguez, also known as Michael Rodriguez, also known as Eduardo Rodriguez Vega,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:10-CR-145-1

Before KING, JOLLY, and GRAVES, Circuit Judges.

PER CURIAM:*

Eduardo Rodriguez-Vela (Rodriguez) appeals his sentence following his guilty plea conviction for illegal reentry into the United States following a felony conviction and deportation. Rodriguez's sole argument on appeal is that the district court misapplied the Sentencing Guidelines when it imposed an eight-level increase in his offense level under U.S.S.G. § 2L1.2(b)(1)(C). We review

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 10-20646

Rodriguez's argument de novo. *See United States v. Landeros-Arreola*, 260 F.3d 407, 410 (5th Cir. 2001).

Rodriguez argues that his conviction for attempted felon in possession of a firearm does not qualify as an aggravated felony under § 2L1.2(b)(1)(C) and comment. (n.5) because the Texas concept of "attempt" is broader than the generic, contemporary meaning of attempt. He further argues that the Texas has not adopted the "substantial step" test of the Model Penal Code and that Texas's approach instead provides for a more broad test.

Rodriguez's arguments have been specifically rejected by this court in *United States v. Sanchez*, 667 F.3d 555, 563-66 (5th Cir. 2012). Accordingly, the judgment of the district court is AFFIRMED.