

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

No. 14-40575
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
February 23, 2015

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

SANTIAGO JONGUITUD-OVIEDO,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:14-CR-51

Before DAVIS, CLEMENT and COSTA, Circuit Judges.

PER CURIAM:*

Santiago Jonguitud-Oviedo pleaded guilty to being found unlawfully present in the United States following removal; he received a within-guidelines sentence of 46 months of imprisonment.

The parties agree that, because Jonguitud-Oviedo was sentenced to deferred adjudication for a prior aggravated assault with a deadly weapon conviction, he was not convicted of an aggravated felony and, thus, 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

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judgment improperly reflects that he was convicted and sentenced under 8 U.S.C. § 1326(b)(2). *See United States v. Mondragon-Santiago*, 564 F.3d 357, 368 (5th Cir. 2009). Because Jonguitud-Oviedo's offense was a § 1326(b)(1) violation rather than a § 1326(b)(2) violation, we REMAND for the limited purpose of reforming the judgment to reflect the proper statute of conviction. *See* 28 U.S.C. § 2106. In all other respects, the judgment is AFFIRMED.