UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-4499

UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

JOSE OSCAR PINEDA-TEJADA,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Alexander Williams, Jr., District Judge. (8:10-cr-00311-AW-1)

Submitted: December 21, 2011 Decided: January 26, 2012

Before DAVIS and KEENAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Andrew R. Szekely, LAWLOR & ENGLERT, LLC, Greenbelt, Maryland, for Appellant. Rod J. Rosenstein, United States Attorney, Jonathan Lenzner, Assistant United States Attorney, Greenbelt, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jose Oscar Pineda-Tejada was convicted, pursuant to a jury trial, of unauthorized reentry by a previously deported alien, in violation of 8 U.S.C. § 1326(a), (b)(2) (2006). Pineda-Tejada timely appealed. We affirm.

On appeal, Pineda-Tejada claims that the district court erred when it instructed the jury that a finding of illegal reentry did not require a finding of specific intent. Pineda-Tejada did not object to the jury instruction at trial, and therefore, this court reviews this issue for plain error. Neder v. United States, 527 U.S. 1, 8-9 (1999). To obtain a conviction under § 1326, the Government must establish only that: (1) Pineda-Tejada was an alien who was previously arrested and deported; (2) he reentered the United States voluntarily; and (3) he failed to obtain the express permission of the Attorney General to do so. See United States v. Espinoza-Leon, 873 F.2d 743, 746 (4th Cir. 1989); see also 8 U.S.C. § 1326(a). Because the district court's instructions were consistent with the precedent of this Circuit, we conclude that the jury instructions were not erroneous.

Accordingly, we affirm the judgment of the district court. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials

before the court and argument would not aid the decisional process.

AFFIRMED