

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-4488

United States of America,

Appellee,

v.

Alfredo Flores, also known as Freddie,

Appellant.

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Appeal from the United States
District Court for the
Eastern District of Missouri.

[UNPUBLISHED]

Submitted: March 7, 2007
Filed: March 12, 2007

Before WOLLMAN, MURPHY, and BYE, Circuit Judges.

PER CURIAM.

Alfredo Flores appeals the 150-month prison sentence the district court¹ imposed upon his guilty plea to conspiracy to distribute and possess with intent to distribute marijuana and cocaine, in violation of 21 U.S.C. §§ 841(a)(1), and 846. For reversal, Flores argues that Blakely v. Washington, 542 U.S. 296 (2004), effectively overruled Almendarez-Torres v. United States, 523 U.S. 224 (1998), and that the district court therefore violated his Fifth and Sixth Amendment rights in finding that his prior controlled-substance convictions qualified him for sentencing as a career

¹The Honorable Carol E. Jackson, Chief Judge, United States District Court for the Eastern District of Missouri.

offender under U.S.S.G. § 4B1.1. Flores's argument fails as we are still bound by Almendarez-Torres. See United States v. Torres-Alvarado, 416 F.3d 808, 810 (8th Cir. 2005) ("we are bound by Almendarez-Torres until the Supreme Court explicitly overrules it"); see also United States v. Marcussen, 403 F.3d 982, 984 (8th Cir.) (holding that district court, not jury, determines whether prior convictions subject defendant to be sentenced as career offender), cert. denied, 126 S. Ct. 457 (2005).

Accordingly, we affirm.
