

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

No. 15-41217
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
December 15, 2016

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JUAN MORALES-LEON, also known as Juan L. Morales,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:15-CR-209-1

Before KING, DENNIS, and COSTA, Circuit Judges.

PER CURIAM:*

Juan Morales-Leon appeals the sentence imposed following his guilty plea conviction for illegal reentry following deportation in violation of 8 U.S.C. § 1326. He contends that the district court committed reversible plain error by classifying his 1997 Illinois conviction for aggravated criminal sexual abuse as a crime of violence under 18 U.S.C. § 16(b) and, thus, an aggravated felony for purposes of § 1326(b)(2). Morales-Leon argues that his prior conviction does

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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not qualify as an aggravated felony pursuant to 8 U.S.C. § 1101(a)(43)(F) because, under the reasoning in *Johnson v. United States*, 135 S. Ct. 2551 (2015), the crime of violence definition in § 16(b) is unconstitutionally vague.

The Government has filed an unopposed motion for summary affirmance asserting that Morales-Leon's arguments are foreclosed by our recent decision in *United States v. Gonzalez-Longoria*, 831 F.3d 670 (5th Cir. 2016) (en banc), *petition for cert. filed* (Sept. 29, 2016) (No. 16-6259). In the alternative, the Government requests an extension of time in which to file a brief on the merits.

The Government is correct that *Gonzalez-Longoria* forecloses Morales-Leon's facial vagueness challenge to § 16(b), as well as his challenge to our application of § 16(b) on due process grounds. *See id.* at 677. Accordingly, the Government's motion for summary affirmance is GRANTED, the alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.