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

No. 16-10391 Conference Calendar

United States Court of Appeals Fifth Circuit

**FILED** 

December 20, 2016

Lyle W. Cayce Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ALEJANDRO GALINDO-SOTO,

Defendant-Appellant

Appeal from the United States District Court for the Northern District of Texas USDC No. 3:15-CR-329-1

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Before DENNIS, PRADO, and OWEN, Circuit Judges. PER CURIAM:\*

Appealing the judgment in a criminal case, Alejandro Galindo-Soto raises an argument that is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), which held that convictions used to enhance a sentence under 8 U.S.C. § 1326(b)(2) need not be set forth in the indictment. Accordingly, the motion for summary affirmance is GRANTED, the alternative

\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.