

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

United States Court of Appeals  
Fifth Circuit

**FILED**

April 26, 2018

Lyle W. Cayce  
Clerk

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No. 17-10963  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff–Appellee,

v.

ALEJANDRO CHAVEZ-GARCIA,

Defendant–Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:17-CR-44-1

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Before JOLLY, OWEN, and HAYNES, Circuit Judges.

PER CURIAM:\*

Alejandro Chavez-Garcia appeals his conviction and sentence for having been found unlawfully in the United States following deportation. He argues that his 30-month term of imprisonment and his three-year term of supervised release exceeded the respective statutory maximums because the enhanced penalty provision of 8 U.S.C. § 1326(b) is unconstitutional. He also asserts that his guilty plea was invalid because he was not admonished that his prior felony

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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conviction could not be used to enhance his sentence under § 1326(b) unless it was submitted to a jury and proved beyond a reasonable doubt.

However, Chavez-Garcia has filed an unopposed motion for summary disposition and a letter brief conceding that these issues are foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), and explaining that he has raised the issues only to preserve them for possible further review. Accordingly, because summary disposition is appropriate, *see Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), Chavez-Garcia's motion is GRANTED. The district court's judgment is AFFIRMED.