

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

No. 17-20739
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
September 13, 2018
Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

EDGAR GALICIA MORENO, also known as Rolando Sanchez Martinez, also known as Jorge S. Lopez,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:17-CR-214-1

Before JOLLY, COSTA, and HO, Circuit Judges.

PER CURIAM:*

Edgar Galicia Moreno appeals his conviction and 45-month sentence for illegal reentry after deportation. He argues that the district court erred in denying his motion to quash the indictment. Galicia Moreno challenges the validity of the indictment, arguing that it did not specify the specific prior aggravated felony conviction, and that therefore, he was not given sufficient

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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notice of the charges and could not plead double jeopardy in a future prosecution alleging the same conviction as a sentencing enhancement.

The Government has filed an opposed motion for summary affirmance, asserting that *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), forecloses Galicia Moreno's argument. The Government is correct that his argument is foreclosed by *Almendarez-Torres*; thus, summary affirmance is appropriate. See *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Accordingly, the Government's motion for summary affirmance is GRANTED. The judgment is AFFIRMED. The Government's alternative motion for an extension of time to file a brief is DENIED as moot.