

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

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No. 18-50935  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

June 19, 2019

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

EUSEBIO LUNA REYES,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 2:18-CR-340-1

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Before DENNIS, CLEMENT, and OWEN, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Eusebio Luna Reyes contends that a prior aggravated felony conviction is an element of the offense under 8 U.S.C. § 1326(b)(2) that must be admitted by the defendant or found by a jury beyond a reasonable doubt. As he concedes, the issue is foreclosed by *United States v. Almendarez-Torres*, 523 U.S. 224 (1998). The Government's motion for summary affirmance is GRANTED, and the judgment of the district

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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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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court is AFFIRMED. The Government's alternative motion for an extension of time to file an appellee's brief is DENIED as moot.