United States Court of Appeals
for the Fifth Circuit

No. 20-40097
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ALFONSO LOPEZ-RODRIGUEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:19-CR-897-1

Before JOLLY, ELROD, and GRAVES, *Circuit Judges*.

PER CURIAM:*

Alfonso Lopez-Rodriguez appeals his conviction and sentence for illegal reentry after deportation, pursuant to 8 U.S.C. § 1326(b)(2). For the first time on appeal, Lopez-Rodriguez argues that the district court committed plain error by convicting, sentencing, and entering judgment

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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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

under § 1326(b)(2). He contends that the Texas offense of aggravated robbery is not an aggravated felony for purposes of § 1326(b)(2) because the offense can be committed with a mens rea of recklessness. Lopez-Rodriguez concedes that this issue is foreclosed by circuit precedent but raises it to preserve for further possible review.

The Government has filed an unopposed motion for summary affirmance, asserting that the issue is foreclosed by *United States v. Tzacir-Garcia*, 928 F.3d 448, 450 (5th Cir. 2019), and *United States v. Plaza-Montecillo*, 772 F. App'x 84, 85 (5th Cir.), *cert. denied*, 140 S. Ct. 391 (2019). Alternatively, the Government moves for an extension of time to file its brief.

Because the only issue on appeal is foreclosed, *see Tzacir-Garcia*, 928 F.3d at 450, 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 Government's alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.