

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

August 20, 2020

Lyle W. Cayce
Clerk

No. 20-50097
consolidated with
No. 20-50098
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

GUILLERMO ANTONIO CAMPOS-MORALES,

Defendant—Appellant.

Appeals from the United States District Court
for the Western District of Texas
USDC No. 4:19-CR-693-1
USDC No. 4:19-CR-703-1

Before DAVIS, STEWART, and DENNIS, *Circuit Judges.*

PER CURIAM:*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 20-50097
c/w No. 20-50098

Guillermo Antonio Campos-Morales appeals the 16-month, within-guidelines prison term and three-year supervised release term imposed following his guilty plea conviction for illegally reentering the United States after removal. He also appeals a separate revocation judgment but raises no challenge to the revocation of his supervised release.

Campos-Morales argues that under the principles articulated in *Apprendi v. New Jersey*, 530 U.S. 466 (2000), and *Alleyne v. United States*, 570 U.S. 99 (2013), 8 U.S.C. § 1326(b) is unconstitutional because it permits an enhanced penalty based on the fact of a prior felony conviction not alleged in the indictment nor found by a jury beyond a reasonable doubt. The Government has filed an unopposed motion for summary affirmance and, alternatively, seeks an extension of time to file its brief.

As the Government argues and as Campos-Morales concedes, this issue is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). See *United States v. Wallace*, 759 F.3d 486, 497 (5th Cir. 2014); *United States v. Pineda-Arrellano*, 492 F.3d 624, 625-26 (5th Cir. 2007). Because the issue is foreclosed, 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, and the judgments are AFFIRMED. The Government's alternative motion for an extension of time to file its brief is DENIED.