

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

May 19, 2022

Lyle W. Cayce  
Clerk

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No. 21-11035  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

MIGUEL JESUS RODRIGUEZ-VILLANUEVA,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:20-CR-555-1

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Before SOUTHWICK, OLDHAM, and WILSON, *Circuit Judges.*

PER CURIAM:\*

Miguel Jesus Rodriguez-Villanueva appeals the 21-month sentence imposed subsequent to his conviction for illegal reentry after having been previously removed, pursuant to 8 U.S.C. § 1326(a). His sole argument on

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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appeal is that we have jurisdiction to review the district court's denial of his motion for a downward departure.

Rodriguez-Villanueva concedes that the argument is foreclosed by *United States v. Lucas*, 516 F.3d 316, 350–51 (5th Cir. 2008), and *United States v. Alaniz*, 726 F.3d 586, 627 (5th Cir. 2013), but he wishes to preserve it for further review. The Government has moved, without opposition, for summary affirmance.

There is nothing in the record to indicate that the district court erroneously believed that it did not have the authority to depart. *See United States v. Fillmore*, 889 F.3d 249, 255 (5th Cir. 2018). Therefore, we do not have jurisdiction to review the denial of the motion for a downward departure. *See id.* Accordingly, this appeal is DISMISSED for lack of jurisdiction. The motion for summary affirmance is DENIED. The Government's alternative motion for an extension of time is, likewise, DENIED.