

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

January 27, 2022

Lyle W. Cayce
Clerk

No. 21-50735
CONSOLIDATED WITH
No. 21-50756
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

GUILLERMO MATA-VALERIO,

Defendant—Appellant.

Appeals from the United States District Court
for the Western District of Texas
USDC No. 4:16-CR-73-1
USDC No. 4:21-CR-116-1

Before HIGGINBOTHAM, HIGGINSON, and DUNCAN, *Circuit Judges.*

PER CURIAM:*

Guillermo Mata-Valerio appeals his conviction for illegal reentry after deportation and his sentence of 46 months of imprisonment and three years

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 21-50735
c/w No. 21-50756

of supervised release. He argues that his sentence exceeded the statutory maximum because the enhanced penalty provisions of 8 U.S.C. § 1326(b) are unconstitutional. He has not briefed the validity of the revocation of his supervised release or the 14-month revocation sentence he received and has, therefore, abandoned any challenge to them. *See United States v. Still*, 102 F.3d 118, 122 n.7 (5th Cir. 1996).

Mata-Valerio has filed an unopposed motion for summary disposition and a letter brief conceding correctly that this issue is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). *See United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019). Mata-Valerio states that he has raised the issue only to preserve it for possible further review. Because summary disposition is appropriate, *see Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), Mata-Valerio's motion is GRANTED, and the district court's judgment is AFFIRMED.