

United States Court of Appeals for the Fifth Circuit

No. 22-50436
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
September 23, 2022
Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

URIEL MORA-MENDEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:21-CR-530-1

Before HIGGINBOTHAM, GRAVES, and HO, *Circuit Judges.*

PER CURIAM:*

Uriel Mora-Mendez appeals his conviction and sentence for illegal reentry after removal. He argues that his sentence exceeded the statutory maximum and thus violated his due process rights because the district court applied a statutory sentence enhancement under 8 U.S.C. § 1326(b) based on

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.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. 22-50436

facts that were neither alleged in the indictment nor found by a jury beyond a reasonable doubt. Mora-Mendez has filed an unopposed motion for summary disposition in which he concedes that his argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), and he explains that he has raised the issue only to preserve it for further review.

Mora-Mendez is correct that his argument is foreclosed by *Almendarez-Torres*. See *United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019). Accordingly, his motion is GRANTED, see *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), and the district court's judgment is AFFIRMED.