

United States Court of Appeals
for the Fifth Circuit

No. 23-50251
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
November 27, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOSE DE JESUS RANGEL HERNANDEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:22-CR-200-1

Before HIGGINBOTHAM, STEWART, and SOUTHWICK, *Circuit Judges.*

PER CURIAM:*

Jose de Jesus Rangel Hernandez appeals his conviction and sentence for illegal reentry into the United States after removal. Hernandez argues that 8 U.S.C. § 1326(b) is unconstitutional. He acknowledges that his argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), but he contends it has been called into doubt by later decisions, and

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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he seeks to preserve the issue for Supreme Court review. He has filed an unopposed motion for summary disposition.

We have held that subsequent Supreme Court decisions, such as *Alleyne v. United States*, 570 U.S. 99 (2013), and *Apprendi v. New Jersey*, 530 U.S. 466 (2000), did not overrule *Almendarez-Torres*. See *United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019). Accordingly, Hernandez is correct that his argument is foreclosed, and summary disposition is appropriate. See *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

IT IS ORDERED that Hernandez's motion is GRANTED, and the district court's judgment is AFFIRMED.