

United States Court of Appeals
for the Fifth Circuit

No. 23-50686
CONSOLIDATED WITH
No. 23-50689
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 12, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

FELIPE MATIAS-MIGUEL,

Defendant—Appellant.

Appeals from the United States District Court
for the Western District of Texas
USDC Nos. 4:23-CR-178-1,
4:22-CR-229-1

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

PER CURIAM:*

Felipe Matias-Miguel appeals following his conviction for illegal reentry in violation of 8 U.S.C. § 1326(a) as well as the revocation of a previously imposed term of supervised release, arguing for the first time on

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

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appeal that the statutory sentencing enhancement in § 1326(b) is unconstitutional. He concedes this argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), and has filed an unopposed motion for summary disposition.

Because the argument is foreclosed, *see United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019), summary disposition is appropriate, *see Groendyke Transp. Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Accordingly, the motion for summary disposition is GRANTED, and the judgments of the district court are AFFIRMED.