United States Court of Appeals for the Fifth Circuit

No. 23-50795 Summary Calendar United States Court of Appeals Fifth Circuit

FILED

March 21, 2024

Lyle W. Cayce Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

Enrique Javier Gonzalez-Dominguez,

Defendant—Appellant.

Appeal from the United States District Court for the Western District of Texas USDC No. 4:23-CR-277-1

Before SMITH, HIGGINSON, and ENGELHARDT, Circuit Judges.

Per Curiam:*

Enrique Gonzalez-Dominguez appeals his conviction and sentence for illegal reentry after removal. He avers that 8 U.S.C. § 1326(b) is unconstitutional because it allows a sentence above the otherwise applicable statutory maximum established by § 1326(a) based on facts that are neither alleged in the indictment nor found by a jury beyond a reasonable doubt.

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

No. 23-50795

Gonzalez-Dominguez has filed an unopposed motion for summary disposition and a letter brief correctly conceding that the only issue he raises 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). He explains that he has raised the issue to preserve it for possible further review.

Accordingly, because summary disposition is appropriate, *see Groen-dyke Transp.*, *Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), the motion is GRANTED, and the judgment is AFFIRMED.