

# United States Court of Appeals for the Fifth Circuit

---

No. 24-10991  
Summary Calendar

---

United States Court of Appeals  
Fifth Circuit

**FILED**

August 27, 2025

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

GILBERTO ROLANDO CANALES-VELASQUEZ,

*Defendant—Appellant.*

---

Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:23-CR-103-1

---

Before WIENER, WILLETT, and WILSON, *Circuit Judges*.

PER CURIAM:\*

Gilberto Rolando Canales-Velasquez appeals following his guilty plea conviction for illegal reentry in violation of 8 U.S.C. § 1326(a), arguing that the statutory sentencing enhancement in § 1326(b) is unconstitutional. He concedes that this argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), and the Government has filed an unopposed

---

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

No. 24-10991

motion for summary affirmance or, alternatively, for an extension of time in which to file a brief.

The parties are correct that Canales-Velasquez's argument is foreclosed. *See United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019); *see also Erlinger v. United States*, 602 U.S. 821, 838 (2024) (explaining that *Almendarez-Torres* "persists as a narrow exception permitting judges to find only the fact of a prior conviction" (internal quotation marks and citation omitted)). Summary affirmance is therefore appropriate. *See Groendyke Transp. Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Accordingly, the Government's motion for summary affirmance is GRANTED, the Government's alternative motion for an extension of time is DENIED as unnecessary, and the judgment of the district court is AFFIRMED.