

United States Court of Appeals for the Fifth Circuit

No. 24-50162
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
September 23, 2024
Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CHRISTIAN GUADALUPE CONTRERAS-TORRES,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:23-CR-473-1

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

PER CURIAM:*

Christian Guadalupe Contreras-Torres appeals his conviction and sentence for illegal reentry into the United States in violation of 8 U.S.C. § 1326(a), (b)(1). For the first time on appeal, he argues that § 1326(b) is unconstitutional because it allows a court to impose a sentence above the otherwise applicable statutory maximum established by § 1326(a) based on

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

No. 24-50162

facts that are neither alleged in the indictment nor found by a jury beyond a reasonable doubt.

He 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 states that he has raised the issue to preserve it for possible Supreme Court review. Because summary disposition is appropriate, *see Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th. Cir. 1969), Contreras-Torres's motion is GRANTED, and the district court's judgment is AFFIRMED.