

United States Court of Appeals for the Fifth Circuit

No. 24-50212
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 10, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

RAUL PALACIOS-DE PAZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:23-CR-202-1

Before WIENER, HO, and RAMIREZ, *Circuit Judges.*

PER CURIAM:*

Raul Palacios-De Paz appeals his sentence of 30 months of imprisonment and three years of supervised release for illegally reentering the United States after removal, in violation of 8 U.S.C. § 1326(a) and (b). He argues that § 1326(b) is unconstitutional because it allows a sentence above the otherwise applicable two-year statutory maximum term of

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

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imprisonment in § 1326(a) based on facts that are neither alleged in the indictment nor found by a jury beyond a reasonable doubt. However, he correctly concedes that his argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), and he raises it merely to preserve it for further review. *See United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019). Palacios-De Paz has moved, without opposition, for summary disposition.

Because summary disposition is appropriate, *see Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), Palacios-De Paz's unopposed motion for summary disposition is GRANTED and the district court's judgment is AFFIRMED.