

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 15-11187
Conference Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 21, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

AMILCAR LINARES-MAZARIEGO, also known as Amilcar Linares,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:15-CR-201-1

Before JOLLY, PRADO, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Amilcar Linares-Mazariego raises an argument that is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224, 228, 235 (1998), which held that convictions used to enhance a sentence under 8 U.S.C. § 1326(b)(2) need not be set forth in the indictment. He also raises an argument that is foreclosed by *United States v. Gonzalez-Longoria*, 831 F.3d 670 (5th Cir. 2016) (en banc), *petition for cert. filed* (Sept.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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29, 2016) (No. 16-6259). In *Gonzalez-Longoria*, we held that 18 U.S.C. § 16(b), which defines a crime of violence when incorporated by reference into U.S.S.G. § 2L1.2(b)(1)(C) (2014), is not unconstitutionally vague on its face in light of *Johnson v. United States*, 135 S. Ct. 2551 (2015). *Gonzalez-Longoria*, 831 F.3d at 672. Accordingly, the motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.