

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

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No. 19-50849  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

April 17, 2020

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

IGNACIO MARTINEZ-VENTURA,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 4:19-CR-304-1

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Before CLEMENT, ELROD, and OLDHAM, Circuit Judges.

PER CURIAM:\*

Ignacio Martinez-Ventura appeals the 21-month sentence imposed following his guilty plea conviction for illegal reentry after deportation. He argues that his sentence was imposed under an unconstitutional statute, 8 U.S.C. § 1326(b). He correctly concedes that his argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), but raises the issue to preserve for further possible review. See *United States v. Wallace*, 759 F.3d

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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486, 497 (5th Cir. 2014); *United States v. Pineda-Arrellano*, 492 F.3d 624, 625-26 (5th Cir. 2007).

The Government has filed an unopposed motion for summary affirmance and, alternatively, seeks an extension of time to file its brief. Because the issue is foreclosed, summary affirmance is 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 to file a brief is DENIED, and the judgment of the district court is AFFIRMED.