

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

August 14, 2020

Lyle W. Cayce
Clerk

No. 20-10137
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

LUIS ALBERTO ANDRADE-SALAS,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:19-CR-150-1

Before HAYNES, WILLETT, and HO, *Circuit Judges.*

PER CURIAM:*

Luis Alberto Andrade-Salas argues that his guilty plea was involuntary because the district court failed to advise him at arraignment that his prior felony conviction was an essential element of his illegal reentry offense under 8 U.S.C. § 1326(b)(1). He also contends that his sentence under § 1326(b)(1)

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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is unconstitutional because it is based on facts neither alleged in his indictment nor proven to a jury beyond a reasonable doubt.

As Andrade-Salas concedes, his arguments are foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). See *United States v. Wallace*, 759 F.3d 486, 497 (5th Cir. 2014); *United States v. Rojas-Luna*, 522 F.3d 502, 505-06 (5th Cir. 2008). Thus, 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 AS MOOT, and the judgment of the district court is AFFIRMED.