

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

August 25, 2020

Lyle W. Cayce
Clerk

No. 20-50147
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

GUILLERMO REYES-GARCIA, *also known as* GUILLERMO GARCIA-HERNANDEZ, *also known as* GUILLERMO REYES-GOMERA, *also known as* GUILLERMO REYES-HERNANDEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:19-CR-273-1

Before DAVIS, STEWART, and DENNIS, *Circuit Judges.*

PER CURIAM:*

Before the court is the Government's motion for summary affirmance of Guillermo Reyes-Garcia's conviction under 8 U.S.C. § 1326(b)(1). The

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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sole issue raised by the appeal is whether it violates the Constitution to apply § 1326(b)(1)'s enhanced sentencing range based on a prior conviction that was not alleged in the indictment or found by a jury beyond a reasonable doubt. Reyes-Garcia correctly concedes that the claim is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224, 239-47 (1998), raising it only to preserve the issue for further review. Accordingly, the motion for summary affirmance is GRANTED, and the Government's alternative motion for an extension of time is DENIED. The judgment of the district court is AFFIRMED.