

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

July 27, 2022

Lyle W. Cayce
Clerk

No. 22-50161
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ROBERTO BAHENA-VALLADARES,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:21-CR-181-1

Before WIENER, ELROD, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

Roberto Bahena-Valladares appeals his conviction and sentence for illegal reentry after deportation. Bahena-Valladares argues that his sentence of 48 months of imprisonment and three years of supervised release exceeded the statutory maximum because the enhanced penalty provisions of 8 U.S.C.

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 22-50161

§ 1326(b) are unconstitutional. He has filed an unopposed motion for summary disposition and a letter brief conceding correctly that this issue is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). See *United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019). Bahena-Valladares states that he has raised the issue only to preserve it for possible further review. Because summary disposition is appropriate, see *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), Bahena-Valladares's motion is GRANTED, and the district court's judgment is AFFIRMED.