

# United States Court of Appeals for the Fifth Circuit

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No. 24-50080  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

July 18, 2024

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

GENARO ALBERTO NUNEZ UGARTE,

*Defendant—Appellant,*

CONSOLIDATED WITH

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No. 24-50081

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UNITED STATES OF AMERICA,

*Plaintiff-Appellee,*

*versus*

GENARO ALBERTO NUNEZ-UGARTE,

*Defendant -Appellant.*

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Appeals from the United States District Court  
for the Western District of Texas  
USDC Nos. 4:23-CR-350-1, 4:20-CR-338-1

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Before DAVIS, SOUTHWICK, and HIGGINSON, *Circuit Judges*.

PER CURIAM:\*

Genaro Alberto Nunez Ugarte appeals from his conviction for illegal reentry in violation of 8 U.S.C. § 1326(a), as well as from the revocation of a previously imposed term of supervised release. Nunez Ugarte contends for the first time on appeal that the statutory sentencing enhancement in § 1326(b) is unconstitutional. He concedes that this argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), and has filed an unopposed motion for summary disposition.

Because the claim is foreclosed, *see United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019), summary disposition is warranted, *see Groendyke Transp. Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Thus, the motion for summary disposition is GRANTED, and the judgments of the district court are AFFIRMED.

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\* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.