

United States Court of Appeals for the Fifth Circuit

No. 24-50748
CONSOLIDATED WITH
No. 24-50749
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 22, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ISIDRO CASTRO,

Defendant—Appellant.

Appeals from the United States District Court
for the Western District of Texas
USDC Nos. 2:23-CR-2881-1, 2:19-CR-1353-1

Before JOLLY, GRAVES, and OLDHAM, *Circuit Judges*.

PER CURIAM:*

Isidro Castro appeals his 2024 conviction and sentence for illegal reentry under 8 U.S.C. § 1326. His appeal in that case has been consolidated with his appeal of the order revoking his term of supervised release on a prior conviction.

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

No. 24-50748
c/w No. 24-50749

Regarding his 2024 conviction of illegal reentry, Castro argues for the first time that the statutory sentencing enhancement in § 1326(b) is unconstitutional. He does not raise any issue with his revocation judgment. The Government moves for summary affirmance or, alternatively, an extension of time in which to file an appellate brief. Castro takes no position on the motion but concedes that his sole argument is foreclosed.

As Castro concedes, his only argument 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); see also *Erlinger v. United States*, 602 U.S. 821, 838 (2024) (explaining that *Almendarez-Torres* “persists as a narrow exception permitting judges to find only the fact of a prior conviction” (internal quotation marks and citation omitted)). 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 alternative motion for an extension of time is DENIED, and the judgments of the district court are AFFIRMED.