

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 21, 2021

Lyle W. Cayce
Clerk

No. 21-10149
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JUAN CORENO-GARAY,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:20-CR-265-1

Before JOLLY, WILLETT, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

Juan Coreno-Garay appeals his sentence for illegally reentering the United States after removal. *See* 8 U.S.C. § 1326(a), (b)(1). He contends that the district court erred in sentencing him under § 1326(b)(1)—specifically by imposing a supervised release term of more than one year—

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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because the fact of his prior felony conviction was neither pleaded in the information nor found by a jury beyond a reasonable doubt. Coreno-Garay concedes that this argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), and he raises it only to preserve the issue for further review. The Government moves for summary affirmance or, alternatively, for an extension of time to file a merits brief.

Almendarez-Torres forecloses relief on Coreno-Garay's claim of sentencing error. Accordingly, the motion for summary affirmance is GRANTED, and the judgment is AFFIRMED. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). The Government's alternative motion for an extension of time is DENIED as moot.