

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

January 12, 2022

Lyle W. Cayce  
Clerk

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No. 21-50269  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

JOSE MIGUEL PEREZ-VIDES,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 2:19-CR-1119-1

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Before DAVIS, JONES, and ELROD, *Circuit Judges.*

PER CURIAM:\*

Jose Miguel Perez-Vides appeals his sentence of 27 months of imprisonment and three years of supervised release, which the district court imposed following his jury trial conviction for illegal reentry into the United States, in violation of 8 U.S.C. § 1326. The enhancement of his sentence

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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under § 1326(b)(1) based on his prior conviction for a felony increased the statutory maximum terms of imprisonment and supervised release. He maintains that the enhancement was unconstitutional because his prior conviction was treated as a sentencing factor rather than an element of the offense that must be alleged in the indictment and found by a jury beyond a reasonable doubt. Perez-Vides concedes that the issue is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), but he seeks to preserve the issue for further review. The Government moves for summary affirmance, asserting that this issue is foreclosed.

The parties are correct that Perez-Vides's argument is foreclosed by *Almendarez-Torres*. See *United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019). Accordingly, the Government's motion for summary affirmance is GRANTED, see *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969); its alternative motion for an extension of time to file an appellate brief is DENIED; and the judgment of the district court is AFFIRMED.