

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

February 22, 2022

Lyle W. Cayce  
Clerk

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No. 21-50743  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

JUAN FELIX-ANDREZ,

*Defendant—Appellant,*

CONSOLIDATED WITH

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No. 21-50757

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

JUAN FELIX-ANDRES,

*Defendant—Appellant.*

No. 21-50743  
c/w No. 21-50757

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Appeals from the United States District Court  
for the Western District of Texas  
USDC No. 4:21-CR-135-1  
USDC No. 4:21-CR-386-1

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Before WIENER, DENNIS, and HAYNES, *Circuit Judges*.

PER CURIAM:\*

In this consolidated appeal, Juan Felix-Andrez<sup>1</sup> challenges the sentence imposed following his guilty plea conviction for illegal reentry into the United States after removal, *see* 8 U.S.C. § 1326(a), (b)(2), and a separate judgment revoking the supervised release term imposed in an earlier case, *see* 18 U.S.C. § 3583(e). Because he does not address, in his appellate brief, the validity of the revocation or the revocation sentence, Felix-Andrez has abandoned any challenge to the revocation judgment. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993).

Felix-Andrez argues for the first time on appeal that the enhancement of his illegal reentry sentence pursuant to § 1326(b)(2) was unconstitutional because the fact of his prior conviction was not charged in his indictment or proved to a jury beyond a reasonable doubt. He concedes that this argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), but he wishes to preserve the issue for further review. The Government has filed

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

<sup>1</sup> The district court in the matter underlying No. 21-50757 uses the name “Juan Felix-Andrez,” but lists as an alias the name “Juan Felix-Andres,” which the district court uses in the judgment in the matter underlying No. 21-50743. We use “Juan Felix-Andrez” here, as the parties have done.

No. 21-50743  
c/w No. 21-50757

an unopposed motion for summary affirmance or, in the alternative, a motion for an extension of time to file a brief.

We conclude that Felix-Andrez's concession of foreclosure is correct, and summary affirmance is appropriate. *See United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019); *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

The Government's motion for summary affirmance is GRANTED, the Government's alternative motion for an extension of time to file a brief is DENIED, and the judgments of the district court are AFFIRMED.