

United States Court of Appeals
for the Fifth Circuit

No. 21-50769
CONSOLIDATED WITH
No. 21-50778
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 7, 2022

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

FRANCISCO JAVIER GALVAN-SILVA,

Defendant—Appellant.

Appeals from the United States District Court
for the Western District of Texas
USDC No. 4:19-CR-779-2
USDC No. 4:21-CR-248-1

Before HIGGINBOTHAM, HIGGINSON, and DUNCAN, *Circuit Judges.*

PER CURIAM:*

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 21-50769
c/w No. 21-50778

Francisco Javier Galvan-Silva appeals his conviction and sentence for illegal reentry in violation of 8 U.S.C. § 1326(a) and (b)(2) as well as the revocation of the term of supervised release he was serving at the time of the offense. He has not briefed, and has therefore abandoned, any challenge to the revocation of supervised release or his revocation sentence. *See United States v. Reagan*, 596 F.3d 251, 254-55 (5th Cir. 2010).

For the first time on appeal, Galvan-Silva contends that the enhancement of his sentence pursuant to § 1326(b) was unconstitutional because the fact of a prior conviction was not charged and proved to a jury beyond a reasonable doubt. He has filed an unopposed motion for summary disposition and a letter brief explaining that he raises this issue only to preserve it for further review and conceding correctly that it 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). Because summary disposition is appropriate, *see Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), Galvan-Silva's motion is GRANTED, and the district court's judgments are AFFIRMED.