

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

April 21, 2022

Lyle W. Cayce
Clerk

No. 21-50785
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DAGOBERTO BARRON-VAZQUEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:21-CR-240-1

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

PER CURIAM:*

Dagoberto Barron-Vazquez appeals his conviction for illegal reentry after removal and his sentence of 37 months of imprisonment and three years of supervised release. He argues that his sentence exceeded the statutory

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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maximum because the enhanced penalty provisions of 8 U.S.C. § 1326(b) are unconstitutional.

Barron-Vazquez filed an unopposed motion for summary disposition and a letter brief conceding correctly that this issue is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). *See United States v. Wallace*, 759 F.3d 486, 497 (5th Cir. 2014); *United States v. Pineda-Arrellano*, 492 F.3d 624, 625–26 (5th Cir. 2007). Barron-Vazquez states that he has raised the issue only to preserve it for possible further review. Because summary disposition is appropriate, *see Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), Barron-Vazquez’s motion is GRANTED, and the district court’s judgment is AFFIRMED.