

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

June 24, 2022

Lyle W. Cayce
Clerk

No. 21-51143
CONSOLIDATED WITH
No. 21-51144
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

FAUSTINO SANCHEZ-LUGO,

Defendant—Appellant.

Appeals from the United States District Court
for the Western District of Texas
USDC No. 2:14-CR-191-1
USDC No. 2:20-CR-1249-1

Before SOUTHWICK, OLDHAM, and WILSON, *Circuit Judges.*

PER CURIAM:*

Faustino Sanchez-Lugo appeals his conviction for illegal reentry into the United States under 8 U.S.C. § 1326, along with the revocation of the

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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term of supervised release he was serving at the time of the offense. He has not briefed, and has thus abandoned, any challenge to the revocation of supervised release or to his revocation sentence. *See United States v. Reagan*, 596 F.3d 251, 254–55 (5th Cir. 2010).

For the first time on appeal, Sanchez-Lugo contends that Section 1326(b) is unconstitutional because it allows for the imposition of a sentence above the otherwise applicable statutory maximum based on facts that are neither alleged in the indictment nor found by a jury beyond a reasonable doubt. He has filed an unopposed motion for summary disposition and a letter brief in which he acknowledges that his argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). Sanchez-Lugo explains that he raises this issue only to preserve it for further review.

Summary disposition is proper. Sanchez-Lugo's motion is GRANTED, and the judgments of the district court are AFFIRMED.