

United States Court of Appeals
for the Fifth Circuit

No. 22-50396
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
December 28, 2022

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOSE GUADALUPE CALDERON-GONZALEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:21-CR-1040-1

Before STEWART, DUNCAN, and WILSON, *Circuit Judges.*

PER CURIAM:*

Jose Guadalupe Calderon-Gonzalez appeals his conviction and sentence for illegal reentry after deportation. Calderon-Gonzalez argues that his sentence of 27 months of imprisonment and three years of supervised release exceeded the statutory maximum because the enhanced penalty provisions of 8 U.S.C. § 1326(b) are unconstitutional. He has filed an unopposed motion for summary disposition and a letter brief conceding

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 22-50396

correctly that this issue 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). Calderon-Gonzalez 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), Calderon-Gonzalez's motion is GRANTED, and the district court's judgment is AFFIRMED.