

United States Court of Appeals
for the Fifth Circuit

No. 22-50610
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 17, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

GERONIMO JUAREZ-MEDELLIN,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:22-CR-46-1

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

PER CURIAM:*

Geronimo Juarez-Medellin appeals his conviction and sentence for illegal reentry after removal from the United States, in violation of 8 U.S.C. § 1326(a) & (b)(2), arguing that the application of § 1326(b)'s enhanced penalty provision is unconstitutional because it permits a defendant to be sentenced above the statutory maximum of § 1326(a) based on the fact of a

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

No. 22-50610

prior conviction that was not alleged in the indictment or found by a jury beyond a reasonable doubt. He has filed an unopposed motion for summary disposition and a letter brief conceding that the 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), and explaining that he raises the issue to preserve it for Supreme Court review.

Because summary disposition is appropriate, *see Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), Juarez-Medellin's motion is GRANTED, and the district court's judgment is AFFIRMED.