

United States Court of Appeals for the Fifth Circuit

No. 22-50650
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

November 10, 2022

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

PABEEL NARVAEZ-GOMEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:22-CR-273-1

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

PER CURIAM:*

Pabeel Narvaez-Gomez appeals his conviction and sentence for illegal reentry after removal, in violation of 8 U.S.C. § 1326(a) and (b)(1). Narvaez-Gomez contends that § 1326(b) is unconstitutional because it permits a sentence above the otherwise-applicable statutory maximum based on facts

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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that were neither alleged in the indictment nor found by a jury beyond a reasonable doubt. He acknowledges 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). He nevertheless seeks to preserve the issue for further review and has filed an unopposed motion for summary disposition. Because summary disposition is appropriate, see *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), Narvaez-Gomez's motion is GRANTED, and the district court's judgment is AFFIRMED.