

United States Court of Appeals for the Fifth Circuit

No. 22-50717
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 11, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JORGE CASTELLANOS-HARO,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:22-CR-141-1

Before KING, HIGGINSON, and WILLETT, *Circuit Judges.*

PER CURIAM:*

Jorge Castellanos-Haro appeals his conviction and sentence for reentry after deportation under 8 U.S.C. § 1326(a) and (b)(1). He argues that treating a prior felony conviction that increases the statutory maximum under § 1326(b) as a sentencing factor, as opposed to a separate element of the offense itself, violates the Constitution. He has filed an unopposed motion for summary disposition and a letter brief conceding, correctly, that this issue

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

No. 22-50717

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). Castellanos-Haro 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), Castellanos-Haro's motion is GRANTED, and the district court's judgment is AFFIRMED.