

United States Court of Appeals for the Fifth Circuit

No. 25-10198
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 29, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

OMAR ALONSO PAZOS-MONTES,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:23-CR-308-1

Before HAYNES, GRAVES, and OLDHAM, *Circuit Judges*.

PER CURIAM:*

Omar Alonso Pazos-Montes appeals following his conviction for illegal reentry in violation of 8 U.S.C. § 1326(a), arguing for the first time on appeal that the statutory sentencing enhancement in § 1326(b) is unconstitutional. He concedes that his argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). The Government

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

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has filed an unopposed motion for summary affirmance or, alternatively, for an extension of time in which to file a brief.

The parties are correct that the argument is foreclosed. *See United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019); *see also Erlinger v. United States*, 602 U.S. 821, 838 (2024) (explaining that *Almendarez-Torres* “persists as a narrow exception permitting judges to find only the fact of a prior conviction” (internal quotation marks and citation omitted)). Summary affirmance is therefore appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Accordingly, the motion for summary affirmance is GRANTED, the alternative motion for an extension of time is DENIED AS MOOT, and the judgment of the district court is AFFIRMED.