

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 9, 2025

Lyle W. Cayce
Clerk

No. 25-10500
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

SERGIO ZAMORA-RIOS,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:24-CR-107-1

Before RICHMAN, SOUTHWICK, and WILLETT, *Circuit Judges*.

PER CURIAM:*

Sergio Zamora-Rios appeals following his conviction for illegal reentry in violation of 8 U.S.C. § 1326(a), arguing that the statutory sentencing enhancement in § 1326(b) is unconstitutional. He concedes that Supreme Court precedent forecloses his argument. *See Almendarez-Torres v. United States*, 523 U.S. 224 (1998). And the Government has filed an unopposed

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

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motion for summary affirmance or, alternatively, for an extension of time to file a brief.

As Zamora-Rios concedes, *Almendarez-Torres* forecloses his argument. *See, e.g., 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) (“[*Almendarez-Torres*] persists as a ‘narrow exception’ permitting judges to find only ‘the fact of a prior conviction.’”) (quotation omitted). Summary affirmance is thus appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Accordingly, the Government’s motion for summary affirmance is GRANTED, the alternative motion for an extension of time is DENIED, and the judgment of the district court is AFFIRMED.