

United States Court of Appeals for the Fifth Circuit

No. 25-10828
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 12, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

HILARIO CORONA BOTELLO,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:24-CR-312-1

Before SMITH, HIGGINSON, and WILSON, *Circuit Judges.*

PER CURIAM:*

Hilario Corona Botello appeals following his conviction for illegal reentry in violation of 8 U.S.C. § 1326(a) and (b)(1), arguing that the statutory sentencing enhancement in § 1326(b) is unconstitutional. He concedes this argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). The Government filed an unopposed motion for

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

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

Corona Botello concedes his arguments are 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” (cleaned up)). 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.