

United States Court of Appeals for the Fifth Circuit

No. 25-10915
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 2, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MIGUEL ANGEL PEREZ-RODRIGUEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:25-CR-39-1

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

PER CURIAM:*

Miguel Angel Perez-Rodriguez appeals following his conviction and sentence for illegal reentry into the United States in violation of 8 U.S.C. § 1326(a) and (b)(1). Because the indictment did not allege, and he did not admit to, a prior felony offense, he argues that he was not subject to the enhanced penalty provisions of § 1326(b) and the three-year term of

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

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supervised release he received. Perez-Rodriguez concedes that his argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), and he seeks to preserve it for possible Supreme Court review. The Government has filed a motion for summary affirmance or, alternatively, for an extension of time to file a merits brief. Perez-Rodriguez does not oppose the Government's summary affirmance motion.

As Perez-Rodriguez concedes, the sole argument that he raises on appeal 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) (stating 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)). Therefore, summary affirmance is 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.