

# United States Court of Appeals for the Fifth Circuit

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No. 25-10937  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit  
**FILED**  
January 27, 2026

UNITED STATES OF AMERICA,

Lyle W. Cayce  
Clerk

*Plaintiff—Appellee,*

*versus*

JOSE INEZ MOLINA-MONCIVAIAS,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:25-CR-62-1

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Before WIENER, WILLETT, and WILSON, *Circuit Judges.*

PER CURIAM:\*

Jose Inez Molina-Moncivais appeals following his conviction for illegal reentry in violation of 8 U.S.C. § 1326(a). Molina-Moncivais contends 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 has filed an unopposed motion

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

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

The parties are correct that the sole argument that Molina-Moncivais 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)). Summary affirmance is therefore appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Thus, the Government’s motion for summary affirmance is GRANTED. The Government’s alternative motion for an extension of time is DENIED. The judgment of the district court is AFFIRMED.