

United States Court of Appeals
for the Fifth Circuit

No. 25-11223
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 15, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

YOBANI MEDINA-HERNANDEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:25-CR-151-1

Before KING, HAYNES, and HO, *Circuit Judges.*

PER CURIAM:*

Yobani Medina-Hernandez appeals following his conviction and sentence under 8 U.S.C. § 1326(a) for illegal reentry into the United States after deportation, arguing that the sentencing enhancement in § 1326(b) is unconstitutional. Medina-Hernandez concedes that his argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), and

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

No. 25-11223

seeks to preserve the issue for further review. The Government has filed an unopposed motion for summary affirmance or, alternatively, for an extension of time in which to file its brief.

The parties are correct that Medina-Hernandez's 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 thus 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 extension of time is DENIED as moot, and the judgment of the district court is AFFIRMED.