

United States Court of Appeals for the Fifth Circuit

No. 25-11228
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

September 9, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DAVID PABLO CASTELLANO-MARTINEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:25-CR-10-1

Before HIGGINBOTHAM, JONES, and OLDHAM, *Circuit Judges*.

PER CURIAM:*

David Pablo Castellano-Martinez appeals following his conviction and sentence for illegal reentry after removal from the United States under 8 U.S.C. § 1326(a), arguing that the recidivism 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

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

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

The parties are correct that Castellano-Martinez'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, and the judgment of the district court is AFFIRMED.