

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 23, 2026

Lyle W. Cayce
Clerk

No. 25-40751
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

GABRIEL AMADOR,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:08-CR-738-1

Before SMITH, STEWART, and SOUTHWICK, *Circuit Judges*.

PER CURIAM:*

Gabriel Amador, federal prisoner # 42731-279, appeals the district court's denial of his motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A). He contends that the district court: (1) abused its discretion in denying his motion to amend; (2) incorrectly concluded that he would still be subject to an enhanced sentencing range under 21 U.S.C. § 841(b)(1)(B) and 21 U.S.C. § 851 because his prior drug conviction would no longer qualify

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

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as a predicate offense under the First Step Act; and (3) erred by relying on drug quantities to enhance his statutory range that were not found by a jury, in violation of *Apprendi v. New Jersey*, 530 U.S. 466 (2000). Amador's argument made pursuant to *Erlinger v. United States*, 602 U.S. 821 (2024), is raised for the first time on appeal and will not be considered. *See United States v. Joseph*, 102 F.4th 686, 691 (5th Cir. 2024). Although Amador raised other arguments in the district court, he does not brief them before this court and they are abandoned. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993). The Government has filed a motion for summary affirmance or, alternatively, for an extension of time to file an appellate brief.

Amador is not entitled to relief. *See Rutherford v. United States*, 146 S. Ct. 1320, 1335 (2026); *Fernandez v. United States*, 146 S. Ct. 1292, 1302-07 (2026); *United States v. Austin*, 125 F.4th 688, 692 (5th Cir. 2025); *United States v. Escajeda*, 58 F.4th 184, 187 (5th Cir. 2023). Because these cases are dispositive, we affirm the district court's judgment without further briefing. *See United States v. Bailey*, 924 F.3d 1289, 1290 (5th Cir. 2019).

In light of the foregoing, the motion for summary affirmance or, alternatively, for an extension of time, is DENIED, and the judgment of the district court is AFFIRMED.