

United States Court of Appeals for the Fifth Circuit

No. 25-50241
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 24, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JAIME EMILIANO LOPEZ-BAQUERO,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:23-CR-1401-1

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

PER CURIAM:*

Jaime Emiliano Lopez-Baquero appeals following his conviction for illegal reentry under 8 U.S.C. § 1326(a), arguing that the enhancement of his sentence under § 1326(b) is unconstitutional. The Government has moved for summary affirmance or, alternatively, for an extension of time in which to file a brief.

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

No. 25-50241

While Lopez-Baquero takes no position on summary affirmance, he correctly concedes that his argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). 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 Government’s motion for summary affirmance is GRANTED, its alternative motion for an extension of time is DENIED, and the judgment of the district court is AFFIRMED.