United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
February 5, 2026
Lyle W. Cayce
Clerk

No. 25-50447
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JAIME DURAN-CARBAJAL,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:25-CR-70-1

Before JONES, DUNCAN, and DOUGLAS, *Circuit Judges*.

PER CURIAM:[*]

Jaime Duran-Carbajal appeals his conviction and sentence for illegal reentry into the United States under 8 U.S.C. § 1326. He argues that the recidivism enhancement in § 1326(b) is unconstitutional because it permits a sentence above the otherwise-applicable statutory maximum established by § 1326(a) based on facts that are neither alleged in the indictment nor found

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

by a jury beyond a reasonable doubt. The Government has filed a motion for summary affirmance or, alternatively, for an extension of time to file its brief. While Duran-Carbajal takes no position on the motion for summary affirmance, he acknowledges that his argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), and seeks to preserve the issue for possible Supreme Court review.

The parties are correct that the argument is foreclosed by *Almendarez-Torres*. *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)). Because the Government's position "is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case," summary affirmance is appropriate. *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Accordingly, the motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED. The Government's alternative motion for an extension of time is DENIED.