

United States Court of Appeals for the Fifth Circuit

No. 25-50575
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 11, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DARIO CASTILLO-GONZALEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:24-CR-3366-1

Before WIENER, WILLETT, and WILSON, *Circuit Judges.*

PER CURIAM:*

Dario Castillo-Gonzalez appeals following his conviction for illegal reentry into the United States in violation of 8 U.S.C. § 1326(a) & (b)(1), arguing that the statutory enhancement in § 1326(b) is unconstitutional. He concedes that this argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). The Government has filed a motion for summary

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

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affirmance or, alternatively, for an extension of time in which to file a brief. Castillo-Gonzalez takes no position on the motion.

As Castillo-Gonzalez concedes, his 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)). 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, the alternative motion for an extension of time is DENIED, and the judgment of the district court is AFFIRMED.