

United States Court of Appeals for the Fifth Circuit

No. 25-50928
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 28, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

OSCAR GARZA-RODRIGUEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:24-CR-1274-1

Before HAYNES, GRAVES, and RAMIREZ, *Circuit Judges.*

PER CURIAM:*

Oscar Garza-Rodriguez appeals 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 has filed an unopposed motion

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

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

Garza-Rodriguez’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 therefore appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

The motion for summary affirmance is GRANTED, the alternative motion for extension of time is DENIED as moot, and the judgment of the district court is AFFIRMED.