

United States Court of Appeals for the Fifth Circuit

No. 26-50068
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
September 21, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

LUIS ALONSO PINEDA-URQUIA,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:24-CR-850-1

Before STEWART, RICHMAN, and HIGGINSON, *Circuit Judges*.

PER CURIAM:*

Luis Alonso Pineda-Urquia appeals his sentence for illegal reentry into the United States after having been removed, in violation of 8 U.S.C. § 1326(a) and (b)(2). He contends that § 1326(b) is unconstitutional because it allows a sentence above the otherwise applicable statutory maximum based on facts that are neither alleged in the indictment nor found by a jury beyond a reasonable doubt. However, he acknowledges that this argument is

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

No. 26-50068

foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), and he raises this issue to preserve it for further review. The Government has moved without opposition for summary affirmance, or, alternatively, for an extension of time to file a brief.

The parties are correct that Pineda-Urquia's sole argument on appeal 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).

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