

United States Court of Appeals for the Fifth Circuit

No. 26-50069
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 7, 2026

Thomas B. Plunkett, III
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ADAN SANDOVAL-LINAN,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:25-CR-1455-1

Before WILLETT, DUNCAN, and ENGELHARDT, *Circuit Judges*.

PER CURIAM:*

Adan Sandoval-Linan appeals his sentence for illegal reentry under 8 U.S.C. § 1326(a) and (b)(2), arguing that § 1326(b) is unconstitutional because it allows a sentence above the otherwise applicable statutory maximum based on facts that are not alleged in the indictment and either admitted or proved beyond a reasonable doubt. He acknowledges this argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224

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

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(1998), but seeks to preserve it for further review. The Government has moved for summary affirmance or, alternatively, for an extension of time in which to file a brief.

The parties are correct that Sandoval-Linan's sole 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).

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.