

United States Court of Appeals
for the Fifth Circuit

No. 26-50127
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

September 4, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ORLANDO EVERADO AGUIRRE-BARRA,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 7:25-CR-163-1

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

PER CURIAM:*

Orlando Everado Aguirre-Barra appeals following his conviction and sentence for illegal reentry into the United States, arguing for the first time that the recidivism enhancement in 8 U.S.C. § 1326(b) is unconstitutional. The Government has moved for summary affirmance. While Aguirre-Barra takes no position on the motion for summary affirmance, he acknowledges

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

No. 26-50127

his argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998).

The parties are correct that Aguirre-Barra's argument is foreclosed by circuit precedent. *See United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019). 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.