

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 19-50621
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 22, 2020

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE ANGEL CASTILLO-CASTILLO,

Defendant-Appellant

Cons. w/No. 19-50634

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE ANGEL CASTILLO-CASTILLO, also known as Jose A. Castillo-
Castillo, also known as Jose Angel Castillo, also known as Angel Jose Castillo,

Defendant-Appellant

Appeals from the United States District Court
for the Western District of Texas
USDC No. 4:16-CR-48-1
USDC No. 4:19-CR-79-1

No. 19-50621

Before JOLLY, JONES, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Jose Angel Castillo-Castillo appeals his within-guidelines sentence of 46 months of imprisonment and three years of supervised release imposed following his guilty plea conviction for illegal reentry. He also appeals the concomitant revocation of his supervised release related to a prior conviction for illegal reentry. Castillo-Castillo asserts that the enhancement of his sentence pursuant to 8 U.S.C. § 1326(b)(2), which increased the maximum term of imprisonment to 20 years, is unconstitutional because of the treatment of the provision as a sentencing factor rather than as an element of the offense that must be alleged in the indictment and proved to a jury beyond a reasonable doubt.

As he concedes, this issue is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224, 239-47 (1998). See *United States v. Wallace*, 759 F.3d 486, 497 (5th Cir. 2014); *United States v. Rojas-Luna*, 522 F.3d 502, 505-06 (5th Cir. 2008). Thus, summary affirmance is appropriate. See *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Castillo-Castillo has not raised any argument with respect to his revocation proceedings. Any such claim is thus deemed abandoned. See *Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993).

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 judgment of the district court is AFFIRMED.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.