

United States Court of Appeals for the Fifth Circuit

No. 21-51001
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ULISES ERVEY ISLAS-MACIAS,

Defendant—Appellant,

CONSOLIDATED WITH

No. 21-51026

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ERVEY ULISES ISLAS-MACIAS,

Defendant—Appellant.

Appeals from the United States District Court
for the Western District of Texas

No. 21-51001
c/w No. 21-51026

USDC No. 4:21-CR-486-1
USDC No. 7:18-CR-247-1

Before SOUTHWICK, OLDHAM, and WILSON, *Circuit Judges*.

PER CURIAM:*

Ulises Ervey Islas-Macias appeals his conviction and sentence for reentry after deportation under 8 U.S.C. § 1326(a) and (b)(1), along with the revocation of the term of supervised release he was serving at the time of the offense. Because he does not address the validity of the revocation of his supervised release or his revocation sentence, he has abandoned any challenge to that judgment. *See United States v. Reagan*, 596 F.3d 251, 254-55 (5th Cir. 2010).

Islas-Macias argues that treating a prior felony or aggravated felony conviction that increases the statutory maximum under Section 1326(b) as a sentencing factor, rather than a separate element of the offense, violates the Constitution. He has filed an unopposed motion for summary disposition and a letter brief explaining that he has raised the issue only to preserve it for further review and correctly conceding that his argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). *See United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019). Summary disposition is appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Islas-Macias's motion is GRANTED, and the judgments of the district court are AFFIRMED.

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.