

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 12, 2022

Lyle W. Cayce
Clerk

No. 22-10251
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

EDMAN CASTRO-SALAZAR,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:21-CR-144-1

Before KING, HIGGINSON, and WILLETT, *Circuit Judges.*

PER CURIAM:*

Edman Castro-Salazar appeals his sentence for illegal reentry into the United States after having been ordered removed, in violation of 8 U.S.C. § 1326(a) and (b)(1). He contends that the enhancement of his sentence pursuant to § 1326(b)(1), which established a mandatory maximum sentence

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 22-10251

of ten years of imprisonment, is unconstitutional because it was based on a prior conviction that was not alleged in the indictment. He concedes that this argument is foreclosed by the Supreme Court's decision in *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), and merely seeks to preserve this claim for further review. The Government has filed a motion for summary affirmance, asserting that Castro-Salazar's argument is foreclosed.

Because summary disposition is appropriate, *see Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), 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.