

United States Court of Appeals for the Fifth Circuit

No. 23-50342
CONSOLIDATED WITH
No. 23-50356
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

December 13, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOSE LUIS AVALOS-SANCHEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC Nos. 2:20-CR-254-1,
2:22-CR-682-1

Before DENNIS, ELROD, AND WILSON, *Circuit Judges*.

PER CURIAM:*

Jose Luis Avalos-Sanchez appeals his conviction and sentence for illegal reentry in violation of 8 U.S.C. § 1326(a) and (b) as well as the judgment revoking his supervised release for a prior offense. He has not

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

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briefed, and has therefore abandoned, any challenge to the revocation of supervised release or to the revocation sentence. *See United States v. Reagan*, 596 F.3d 251, 254-55 (5th Cir. 2010).

Avalos-Sanchez contends that the enhancement of his illegal-reentry sentence pursuant to § 1326(b) is unconstitutional because the fact of a prior conviction was not charged and proved beyond a reasonable doubt. He has filed a letter brief and an unopposed motion for summary disposition in which, explaining that he seeks to preserve the issue for further review, he concedes this argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). Because Avalos-Sanchez is correct that his argument is foreclosed, *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).

Avalos-Sanchez's motion for summary disposition is GRANTED, and the district court's judgments are AFFIRMED.