

United States Court of Appeals for the Fifth Circuit

No. 25-10348
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 6, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

EPIFANIO LEOS-MORALES,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:24-CR-268-1

Before JONES, DUNCAN, and DOUGLAS, *Circuit Judges*.

PER CURIAM:*

Epifanio Leos-Morales appeals his conviction and 55-month sentence for illegal reentry after deportation, *see* 8 U.S.C. § 1326(a), (b)(2), contending that the statutory sentencing enhancement in § 1326(b) is unconstitutional. He concedes that his only argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). The Government moves unopposed for

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

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summary affirmance or, alternatively, for an extension of time in which to file a merits brief.

The parties are correct that Leos-Morales’s argument is foreclosed. *See United States v. Pervis*, 937 F.3d 546, 55354 (5th Cir. 2019); *see also Erlinger v. United States*, 602 U.S. 821, 838 (2024) (explaining that *Almendarez-Torres* “persists as a narrow exception permitting judges to find . . . the fact of a prior conviction” (citation modified)). 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. The Government’s alternative motion for an extension of time is DENIED. The judgment is AFFIRMED.