

United States Court of Appeals for the Fifth Circuit

No. 25-50712
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 5, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

RAFAEL GOMEZ-DOMINGUEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:25-CR-695-1

Before RICHMAN, SOUTHWICK, and WILLETT, *Circuit Judges*.

PER CURIAM:*

Rafael Gomez-Dominguez appeals his sentence following his guilty-plea conviction for illegal reentry in violation of 8 U.S.C. § 1326(a). He argues for the first time on appeal that the statutory sentencing enhancement in § 1326(b) is unconstitutional. He concedes that this issue is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). The Government

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

No. 25-50712

has filed a motion for summary affirmance or, in the alternative, for an extension of time to file a merits brief.

The parties are correct that Gomez-Dominguez's argument is foreclosed. *See United States v. Pervis*, 937 F.3d 546, 553-54 (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 only the fact of a prior conviction" (internal quotation marks and citation omitted)). Summary affirmance is therefore appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Accordingly, the motion for summary affirmance is GRANTED, the alternative motion for an extension of time is DENIED, and the judgment of the district court is AFFIRMED.