

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

\_\_\_\_\_  
No. 18-50122  
Summary Calendar  
\_\_\_\_\_

United States Court of Appeals  
Fifth Circuit  
**FILED**  
November 20, 2018  
Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALFREDO PEREZ-MONTERO,

Defendant-Appellant.

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\_\_\_\_\_  
No. 18-50132  
Summary Calendar  
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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALFREDO PEREZ-MONTERO, Also Known as Jose Luis Alfredo,  
Also Known as Alfredo Gonzalez-Perez, Also Known as Alfredo Gonzalez,  
Also Known as Alfredo Perez Montero, Also Known as Alfredo Montemegro,  
Also Known as Alfredo Perez-Montro, Also Known as Alfredo Perez,  
Also Known as Alfredo Montero, Also Known as Alfredo Montero-Perez,  
Also Known as Alfredo Perez-Gonzalez, Also Known as Alberto Reyes Perez,

Defendant-Appellant.

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Appeals from the United States District Court  
for the Western District of Texas  
No. 2:17-CR-168-1

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Before SMITH, WIENER, and WILLETT, Circuit Judges.

PER CURIAM:\*

Alfredo Perez-Montero appeals his guilty-plea conviction of illegal reentry after deportation, in violation of 8 U.S.C. § 1326, and his 63-month sentence. He also appeals the revocation of his supervised release related to a conviction for illegal reentry. These appeals are consolidated.

Perez-Montero contends that because his indictment did not specify the felony conviction that formed the basis of his sentencing enhancement, the sentence exceeded the two-year maximum under § 1326(a) and violated his due process rights. Perez-Montero has not raised any issue with the revocation of supervised release. All issues not raised are deemed abandoned. *See Yohey v. Collins*, 985 F.2d 222, 224–25 (5th Cir. 1993).

The government filed an unopposed motion for summary affirmance and, alternatively, seeks an extension of time to file its brief. As the government urges and Perez-Montero concedes, the sole issue on appeal is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). *See United States v. Wallace*, 759 F.3d 486, 497 (5th Cir. 2014); *United States v. Pineda-Arrellano*, 492 F.3d 624, 625–26 (5th Cir. 2007). Because the issue is foreclosed, summary

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\* Pursuant to 5TH CIR. R. 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 CIR. R. 47.5.4.

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affirmance is appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

The motion for summary affirmance is GRANTED, and the judgments are AFFIRMED. The government's alternative motion for an extension of time to file its brief is DENIED as unnecessary.