

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-4563

UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

CLAUDIO ALVAREZ RODRIGUEZ,

Defendant – Appellant.

LEGAL SERVICE PROVIDERS; IMMIGRANT RIGHTS ORGANIZATIONS;
DR. S. DEBORAH KANG; ASIAN AMERICANS ADVANCING JUSTICE;
HUMAN RIGHTS FIRST; NORTHWEST IMMIGRANT RIGHTS PROJECT;
ADVOCATES FOR BASIC LEGAL EQUALITY, INC.; JUSTICE STRATEGIES;
LATINOJUSTICE PRLDEF; LEGAL AID JUSTICE CENTER;
MASSACHUSETTS LAW REFORM INSTITUTE; NATIONAL IMMIGRATION
LAW CENTER; IMMIGRATION SCHOLARS; CENTER FOR IMMIGRATION
LAW AND POLICY; AOKI CENTER FOR CRITICAL RACE AND NATION
STUDIES; SOUTHERN POVERTY LAW CENTER; PROFESSOR ERIC FISH,

Amici Supporting Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at
Alexandria. Anthony John Trenga, Senior District Judge. (1:21-cr-00179-AJT-1)

Argued: September 22, 2023

Decided: April 4, 2024

Before DIAZ, Chief Judge, and AGEE and HARRIS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

ARGUED: Patrick L. Bryant, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Alexandria, Virginia, for Appellant. Joseph Attias, OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Virginia, for Appellee. **ON BRIEF:** Geremy C. Kamens, Federal Public Defender, Cadence A. Mertz, Assistant Federal Public Defender, Alexandria, Virginia, Julie K. Linnen, Assistant Federal Public Defender, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Norfolk, Virginia, for Appellant. Jessica D. Aber, United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Virginia, for Appellee. Khaled Alrabe, Ann Garcia, NATIONAL IMMIGRATION PROJECT OF THE LAWYERS GUILD, Washington, D.C.; Charles Roth, NATIONAL IMMIGRANT JUSTICE CENTER, Chicago, Illinois, for Amici Legal Service Providers and Immigrant Rights Organizations. Philip L. Torrey, Rachel Landry, Crimmigration Clinic, HARVARD LAW SCHOOL, Cambridge, Massachusetts, for Amicus Dr. S. Deborah Kang. Michele Akemi McKenzie, MCKENZIE SCOTT PC, San Diego, California, for Amici Asian Americans Advancing Justice, Human Rights, First, and Northwest Immigrant Rights Project. Lourdes Rosado, President and General Counsel, Andrew Case, LATINOJUSTICE PRLDEF, New York, New York; Max S. Wolson, Washington, D.C., Nicholas David Espiritu, NATIONAL IMMIGRATION LAW CENTER, Los Angeles, California, for Amici Advocates for Basic Legal Equality, Justice Strategies, Latino Justice PRLDEF, Legal Aid Justice Center, Massachusetts Law Reform Institute, and National Immigration Law Center. Amanda Valerio, Washington, D.C., Alexia D. Korberg, Melina Meneguín Layerenza, Patrick McCusker, PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP, New York, New York, for Amici Immigration Scholars. Yaman Salahi, EDELSON PC, San Francisco, California, for Amici The Center for Immigration Law and Policy, The Aoki Center for Critical Race and Nation Studies, The Southern Poverty Law Center, and Professor Eric Fish.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Claudio Alvarez Rodriguez was convicted of illegally reentering the United States after a previous removal in violation of 8 U.S.C. § 1326. He moved to dismiss his indictment, arguing that § 1326 is unconstitutional because it was enacted with a racially discriminatory purpose. According to Rodriguez, a predecessor illegal-reentry statute from 1929 was based on racial animus, and that same animus carried over to § 1326, enacted almost 25 years later as part of the Immigration and Nationality Act. The district court denied Rodriguez’s motion to dismiss, finding that § 1326 is “not unconstitutional based on an impermissible motive in its . . . origins or its provenance.” J.A. 1134.

In *United States v. Sanchez-Garcia*, No. 22-4072 (4th Cir. Apr. 4, 2024), we sustained the constitutionality of § 1326 against the same argument raised by Rodriguez. Consistent with our holding in *Sanchez-Garcia*, we affirm the judgment of the district court.

AFFIRMED