IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 17-11177
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JORGE RUELAS-MARTINEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:17-CR-101-1

Before HIGGINBOTHAM, ELROD, and DUNCAN, Circuit Judges.

PER CURIAM:[*]

Jorge Ruelas-Martinez appeals the 66-month, below-guidelines prison term imposed following his guilty plea conviction for illegally reentering the United States after removal. Raising one issue, Ruelas-Martinez argues that his indictment did not allege a conviction occurring before his removal and that, for this reason, his prison term, imposed under 8 U.S.C. § 1326(b), was in excess of the statutory maximum permitted under § 1326(a) and violated his

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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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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due process rights.   The Government has filed an unopposed motion for summary affirmance and, alternatively, seeks an extension of time to file its brief.

As the Government argues and as Ruelas-Martinez concedes, the only issue raised 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 affirmance is appropriate.   *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Accordingly, the Government's unopposed motion for summary affirmance is GRANTED, and the judgment is AFFIRMED.   The Government's alternative motion for an extension of time to file its brief is DENIED.