

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

No. 18-50755
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 22, 2019

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

VICTOR MANUEL COLLAZO-GONZALEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:18-CR-152-1

Before DENNIS, CLEMENT, and OWEN, Circuit Judges.

PER CURIAM:*

Victor Manuel Collazo-Gonzalez appeals his 46-month, within-guidelines sentence for illegal reentry following deportation. Because Collazo-Gonzalez's prior removal from the United States followed felony convictions for possession of methamphetamine and marijuana, his maximum term of imprisonment was increased from two to 10 years. *See* 8 U.S.C. § 1326(a), (b)(1). He contends that because the indictment did not allege the prior felony

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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convictions, his sentence is unconstitutional under *Apprendi v. New Jersey*, 530 U.S. 466 (2000), and *Alleyne v. United States*, 570 U.S. 99 (2013). Collazo-Gonzalez concedes that this argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224, 235, 239 (1998), and he raises it to preserve the issue for possible Supreme Court review.

The Government has moved for summary affirmance or, alternatively, for an extension of time to file a brief. Because the sole issue presented is foreclosed, summary affirmance is appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Accordingly, the motion for summary affirmance is GRANTED. The Government's alternative motion for an extension of time to file a brief is DENIED. The judgment is AFFIRMED.