

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

No. 19-50517
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
October 22, 2019

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

VICTOR MANUEL MORA-GALINDO, also known as Andres Hernandez-
Miguel,

Defendant-Appellant

Cons. w/ No. 19-50527

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

VICTOR MANUEL MORA-GALINDO,

Defendant-Appellant

Appeals from the United States District Court
for the Western District of Texas
USDC No. 4:18-CR-826-1
USDC No. 4:18-CR-217-1

No. 19-50517
c/w No. 19-50527

Before JOLLY, JONES, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Victor Manuel Mora-Galindo appeals his conviction for illegal reentry into the United States. He challenges the district court's denial of his motion to dismiss the indictment, arguing that it was invalid because the notice to appear in his removal proceedings was defective because it did not specify a time and date for his removal hearing and that the removal order was thus void. He concedes that the issue is foreclosed by *United States v. Pedroza-Rocha*, 933 F.3d 490 (5th Cir. 2019), but he wishes to preserve it for further review. The Government has filed an unopposed motion for summary affirmance, agreeing that the issue is foreclosed under *Pedroza-Rocha*. Alternatively, the Government requests an extension of time to file its brief.

Summary affirmance is appropriate if “the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case.” *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). *Pedroza-Rocha* concluded that the notice to appear was not rendered deficient because it did not specify a date for the hearing, that any such alleged deficiency had not deprived the immigration court of jurisdiction, and that *Pedroza-Rocha* could not collaterally attack his notice to appear without first exhausting his administrative remedies. 933 F.3d at 496-98. Mora-Galindo's arguments are, as he concedes, foreclosed by this case. *See id.* Accordingly, the Government's motion for summary affirmance is GRANTED, the Government's alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.