

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

May 17, 2022

Lyle W. Cayce
Clerk

No. 21-51080

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

EDWIN YOVANI ARIAS-QUINTANILLA,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:21-CR-531-1

Before JOLLY, WILLETT, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

Edwin Yovani Arias-Quintanilla was convicted and sentenced for illegal reentry after removal under 8 U.S.C. § 1326(a) and (b)(1). He now argues for the first time that § 1326(b) is unconstitutional. Arias-Quintanilla has nonetheless filed an unopposed motion for summary affirmance and a letter brief explaining that he raises the issue to preserve it and correctly

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 21-51080

conceding his argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224, 226 (1998). *See, e.g., United States v. Pervis*, 937 F.3d 546, 553–54 (5th Cir. 2019). Summary disposition is therefore appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

As such, we GRANT Arias-Quintanilla’s unopposed motion and AFFIRM the district court’s judgment.