

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

May 3, 2022

Lyle W. Cayce  
Clerk

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No. 21-51114  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

VICTOR MANUEL DUARTE-MUNOZ,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 4:21-CR-359-1

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Before CLEMENT, HAYNES, and HIGGINSON, *Circuit Judges.*

PER CURIAM:\*

Victor Manuel Duarte-Munoz appeals his conviction and sentence for illegal reentry in violation of 8 U.S.C. § 1326(a) and (b)(2), contending that the enhancement of his sentence pursuant to § 1326(b) is unconstitutional because the fact of a prior conviction was not charged and proved beyond a

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.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. 21-51114

reasonable doubt. He has filed an unopposed motion for summary disposition and a letter brief explaining that he raises this issue only to preserve it for further review and correctly conceding that it is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). See *United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019).

Because summary disposition is appropriate, see *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), Duarte-Munoz's motion is GRANTED, and the judgment of the district court is AFFIRMED.