United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
October 21, 2022
Lyle W. Cayce
Clerk

No. 22-50358
CONSOLIDATED WITH
No. 22-50371
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MIGUEL ANGEL VALENCIA-SANDOVAL,

Defendant—Appellant.

Appeals from the United States District Court
for the Western District of Texas
USDC No. 4:21-CR-1031-1
USDC No. 4:22-CR-3-1

Before WIENER, ELROD, and ENGELHARDT, *Circuit Judges*.

PER CURIAM:*

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

Miguel Angel Valencia-Sandoval appeals his conviction and sentence for illegal reentry after deportation in violation of 8 U.S.C. § 1326(a) and (b)(1), along with the revocation of a term of supervised release he was serving for a prior offense. He has not briefed the validity of the revocation of his supervised release or his revocation sentence and has, therefore, abandoned any challenge to them. *See United States v. Reagan*, 596 F.3d 251, 254-55 (5th Cir. 2010).

In his sole issue on appeal, Valencia-Sandoval contends that § 1326(b) is unconstitutional because it permits a sentence above the otherwise-applicable statutory maximum based on facts that were neither alleged in the indictment nor found by a jury beyond a reasonable doubt. He has filed an unopposed motion for summary disposition and a letter brief explaining that he has raised this issue only to preserve it for further review and conceding that this issue 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), Valencia-Sandoval's motion is GRANTED, and the district court's judgments are AFFIRMED.