United States Court of Appeals for the Fifth Circuit

No. 22-50374 Summary Calendar

UNITED STATES OF AMERICA,

United States Court of Appeals Fifth Circuit

FILED

February 24, 2023

Lyle W. Cayce Clerk

Plaintiff—Appellee,

versus

NICASIO NEVAREZ-ZAMUDIO,

Defendant—Appellant.

Appeal from the United States District Court for the Western District of Texas USDC No. 4:21-CR-1067-1

Before King, Higginson, and Willett, Circuit Judges.

PER CURIAM:*

Nicasio Nevarez-Zamudio 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 under § 1326(b) is unconstitutional. 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, correctly conceding it to be foreclosed by *Almendarez-Torres v. United States*,

 * This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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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), Nevarez-Zamudio's motion is GRANTED, and the judgment of the district court is AFFIRMED.