

United States Court of Appeals  
for the Fifth Circuit

---

No. 22-50874  
CONSOLIDATED WITH  
No. 22-50890

---

United States Court of Appeals  
Fifth Circuit

**FILED**

March 23, 2023

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

EDGAR IVAN ARMENTA-LOPEZ,

*Defendant—Appellant.*

---

Appeals from the United States District Court  
for the Western District of Texas  
USDC Nos. 4:19-CR-438-3, 4:22-CR-230-1

---

Before DAVIS, SMITH, AND DOUGLAS, *Circuit Judges.*

PER CURIAM:\*

Edgar Ivan Armenta-Lopez appeals his conviction and sentence for illegal reentry into the United States under 8 U.S.C. § 1326(a) and (b)(2), as well as the judgment revoking his term of supervised release for a prior offense. The latter challenge is unbriefed and thus abandoned. *See United States v. Reagan*, 596 F.3d 251, 254-55 (5th Cir. 2010).

---

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

No. 22-50874  
c/w No. 22-50890

On appeal, Armenta-Lopez contends that the recidivism enhancement in § 1326(b) is unconstitutional because it permits a sentence above the otherwise applicable statutory maximum established by § 1326(a) based on facts that are neither alleged in the indictment nor found by a jury beyond a reasonable doubt. Although Armenta-Lopez acknowledges that this argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), he nevertheless seeks to preserve it for possible Supreme Court review and has filed an unopposed motion for summary disposition.

Because Armenta-Lopez is correct that his argument is foreclosed, *see United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019), summary disposition is appropriate, *see Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Accordingly, Armenta-Lopez's motion is GRANTED, and the district court's judgments are AFFIRMED.