

United States Court of Appeals
for the Fifth Circuit

No. 23-50795
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 21, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ENRIQUE JAVIER GONZALEZ-DOMINGUEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:23-CR-277-1

Before SMITH, HIGGINSON, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

Enrique Gonzalez-Dominguez appeals his conviction and sentence for illegal reentry after removal. He avers that 8 U.S.C. § 1326(b) is unconstitutional because it allows 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.

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

Gonzalez-Dominguez has filed an unopposed motion for summary disposition and a letter brief correctly conceding that the only issue he raises 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). He explains that he has raised the issue to preserve it for possible further review.

Accordingly, because summary disposition is appropriate, see *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), the motion is GRANTED, and the judgment is AFFIRMED.