

No. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

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OMAR ALONSO PAZOS-MONTES,  
*Petitioner,*

v.

UNITED STATES OF AMERICA,  
*Respondent.*

---

PETITION FOR A WRIT OF CERTIORARI

APPENDIX

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Appendix A: Judgment and Opinion of Fifth Circuit

Appendix B: Judgment and Sentence of the United States District Court (TXN)

Appendix C: Indictment

Appendix D: Factual Résumé

## APPENDIX A

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

July 29, 2025

Lyle W. Cayce  
Clerk

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No. 25-10198  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

OMAR ALONSO PAZOS-MONTES,

*Defendant—Appellant.*

---

Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:23-CR-308-1

---

Before HAYNES, GRAVES, and OLDHAM, *Circuit Judges.*

J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED.

The judgment or mandate of this court shall issue 7 days after the time to file a petition for rehearing expires, or 7 days after entry of an order denying a timely petition for panel rehearing, petition for rehearing en banc, or motion

for stay of mandate, whichever is later. See Fed. R. App. P. 41(b). The court may shorten or extend the time by order. See 5th Cir. R. 41 I.O.P.

# United States Court of Appeals for the Fifth Circuit

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No. 25-10198  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

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UNITED STATES OF AMERICA,

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*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:23-CR-308-1

---

Before HAYNES, GRAVES, and OLDHAM, *Circuit Judges*.

PER CURIAM: \*

Omar Alonso Pazos-Montes appeals following his conviction for illegal reentry in violation of 8 U.S.C. § 1326(a), arguing for the first time on appeal that the statutory sentencing enhancement in § 1326(b) is unconstitutional. He concedes that his argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). The Government

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

No. 25-10198

has filed an unopposed motion for summary affirmance or, alternatively, for an extension of time in which to file a brief.

The parties are correct that the argument is foreclosed. *See United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019); *see also Erlinger v. United States*, 602 U.S. 821, 838 (2024) (explaining that *Almendarez-Torres* “persists as a narrow exception permitting judges to find only the fact of a prior conviction” (internal quotation marks and citation omitted)). Summary affirmance is therefore appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Accordingly, the motion for summary affirmance is GRANTED, the alternative motion for an extension of time is DENIED AS MOOT, and the judgment of the district court is AFFIRMED.

*United States Court of Appeals*

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

July 29, 2025

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing  
or Rehearing En Banc

No. 25-10198 USA v. Pazos-Montes  
USDC No. 3:23-CR-308-1

Enclosed is a copy of the court's decision. The court has entered judgment under Fed. R. App. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

Fed. R. App. P. 39 through 41, and Fed. R. App. P. 39, 40, and 41 govern costs, rehearings, and mandates. **Fed. R. App. P. 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following Fed. R. App. P. 40 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. Fed. R. App. P. 41 provides that a motion for a stay of mandate under Fed. R. App. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under Fed. R. App. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you MUST confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

Sincerely,

LYLE W. CAYCE, Clerk

A handwritten signature in cursive script, appearing to read "M Courseault", written over a horizontal line.

By: \_\_\_\_\_  
Melissa B. Courseault, Deputy Clerk

Enclosure(s)

Mr. Jerry Van Beard  
Mr. Stephen S. Gilstrap



## APPENDIX B

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF TEXAS DALLAS DIVISION**

UNITED STATES OF AMERICA

v.

OMAR ALONSO PAZOS-MONTES

§  
§  
§  
§  
§  
§  
§**JUDGMENT IN A CRIMINAL CASE**

Case Number: 3:23-CR-00308-S(01)

USM Number: 98993-510

**Hugo Aguilar**

Defendant's Attorney

**THE DEFENDANT:**

|                                     |  |  |
|-------------------------------------|--|--|
| <input type="checkbox"/>            | pleaded guilty to count(s)   |  |
| <input checked="" type="checkbox"/> | pleaded guilty to count(s) before the U.S. Magistrate Judge, which was accepted by the Court | <b>Count 1 of the Indictment, filed July 25, 2023.</b> |
| <input type="checkbox"/>            | pleaded nolo contendere to count(s) which was accepted by the Court                          |  |
| <input type="checkbox"/>            | was found guilty on count(s) after a plea of not guilty                                      |  |

The Defendant is adjudicated guilty of:

**Title & Section / Nature of Offense**

8 U.S.C. § 1326(a) Illegal Reentry After Removal from the United States

**Offense Ended**

03/19/2023

**Count**

1

The Defendant is sentenced as provided in this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The Defendant has been found not guilty on count(s)
- ☐ The [ charging instrument ], filed [ date ], is dismissed on the motion of the United States.

It is ordered that the Defendant must notify the United States Attorney for this District within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the Defendant must notify the Court and United States Attorney of material changes in economic circumstances.

January 3, 2025

Date of Imposition of Judgment



Signature of Judge

**KAREN GREN SCHOLER****UNITED STATES DISTRICT JUDGE**

Name and Title of Judge

January 8, 2025

Date of Signature

DEFENDANT: OMAR ALONSO PAZOS-MONTES  
CASE NUMBER: 3:23-CR-00308-S(01)

**IMPRISONMENT**

The Defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:  
**57 months as to Count 1.**

- ☒ The Court makes the following recommendations to the Bureau of Prisons:  
The Court recommends that the Defendant be allowed to serve his sentence at a facility as close to the Dallas-Fort Worth area as possible.
- ☒ The Defendant is remanded to the custody of the United States Marshal.
- ☐ The Defendant shall surrender to the United States Marshal:
- ☐ at ☐ a.m. ☐ p.m. on
- ☐ as notified by the United States Marshal.
- ☐ The Defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- ☐ before #.## p.m./a.m. on
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this Judgment as follows:

The Defendant delivered on \_\_\_\_\_ to

at \_\_\_\_\_, with a certified copy of this Judgment.

UNITED STATES MARSHAL

By

DEPUTY UNITED STATES MARSHAL

DEFENDANT: OMAR ALONSO PAZOS-MONTES  
CASE NUMBER: 3:23-CR-00308-S(01)

**SUPERVISED RELEASE**

Upon release from imprisonment, the Defendant shall be on supervised release for a term of **three (3) years**.

**MANDATORY CONDITIONS**

You must comply with the standard conditions that have been adopted by this Court as well as with any additional conditions on the attached page.

1. You must not commit another federal, state, or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court.
  - ☐ The above drug testing condition is suspended, based on the Court's determination that you pose a low risk of future substance abuse (*Check if applicable*).
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution (*Check if applicable*).
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer (*Check if applicable*).
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense (*Check if applicable*).
7. ☐ You must participate in an approved program for domestic violence (*Check if applicable*).
8. You must pay the assessment imposed in accordance with 18 U.S.C. § 3013.
9. If this judgment imposes a fine, you must pay in accordance with the Schedule of Payments sheet of this judgment.

DEFENDANT: OMAR ALONSO PAZOS-MONTES  
CASE NUMBER: 3:23-CR-00308-S(01)

### STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed of, report to the Court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the Court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the Court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full-time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment, you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the Court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

#### U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the Court and has provided me with a written copy of this Judgment containing these conditions. I understand additional information regarding these conditions is available at [www.txnp.uscourts.gov](http://www.txnp.uscourts.gov).

---

Defendant's Signature

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Date



DEFENDANT: OMAR ALONSO PAZOS-MONTES  
CASE NUMBER: 3:23-CR-00308-S(01)

**SPECIAL CONDITIONS OF SUPERVISION**

Upon the completion of the sentence of imprisonment, the Defendant shall be surrendered by the Federal Bureau of Prisons to a duly authorized immigration official for deportation in accordance with established procedures provided by the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq. If ordered deported, the Defendant shall remain outside the United States.

In the event the Defendant is not deported upon release from imprisonment, or should the Defendant ever be within the United States during any portion of the term of supervised release, the Defendant shall comply with the standard conditions recommended by the U.S. Sentencing Commission and shall comply with the mandatory and special conditions stated in the Judgment.

DEFENDANT: OMAR ALONSO PAZOS-MONTES  
 CASE NUMBER: 3:23-CR-00308-S(01)

### CRIMINAL MONETARY PENALTIES

The Defendant must pay the total criminal monetary penalties under the Schedule of Payments page.

|               | Assessment | Restitution | Fine   | AVAA Assessment* | JVTA Assessment** |
|---------------|------------|-------------|--------|------------------|-------------------|
| <b>TOTALS</b> | \$100.00   | \$ .00      | \$ .00 | \$ .00           | \$ .00            |

- ☐ The determination of restitution is deferred until . An Amended Judgment in a Criminal Case (AO245C) will be entered after such determination.
- ☐ The Defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the Defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all non-federal victims must be paid before the United States is paid.

- ☐ Restitution amount ordered pursuant to plea agreement \$
- ☐ The Defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the Judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The Court determined that the Defendant does not have the ability to pay interest and it is ordered that:
- |   |                               |  |
|---|-------------------------------|--|
| <input type="checkbox"/> the interest requirement is waived for the | <input type="checkbox"/> fine | <input type="checkbox"/> restitution                         |
| <input type="checkbox"/> the interest requirement for the           | <input type="checkbox"/> fine | <input type="checkbox"/> restitution is modified as follows: |

\* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

\*\* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

DEFENDANT: OMAR ALONSO PAZOS-MONTES  
CASE NUMBER: 3:23-CR-00308-S(01)

#### SCHEDULE OF PAYMENTS

Having assessed the Defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☐ Lump sum payments of \$ \_\_\_\_\_ due immediately, balance due  
☐ not later than \_\_\_\_\_, or  
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, ☐ E, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this Judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment.  
The Court will set the payment plan based on an assessment of the Defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:  
It is ordered that the Defendant shall pay to the United States a special assessment of \$100.00 for Count 1, which shall be due immediately. Said special assessment shall be paid to the Clerk of the Court.

Unless the Court has expressly ordered otherwise, if this Judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court.

The Defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several  
See above for defendant and co-defendant names and case numbers (including the Defendant's number), total amount, joint and several amount, and corresponding payee, if appropriate.
- ☐ The Defendant shall pay the cost of prosecution.
- ☐ The Defendant shall pay the following court cost(s):
- ☐ The Defendant shall forfeit the Defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVT A assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.



## APPENDIX C

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

2023 JUL 25 PM 3:49

DEPUTY CLERK MS

UNITED STATES OF AMERICA

NO.

v.

3 - 23 CR 0308 - S

OMAR ALONSO PAZOS-MONTES

INDICTMENT

The Grand Jury charges:

Count One

Illegal Reentry After Removal from the United States  
(Violation of 8 U.S.C. § 1326(a))


On or about March 19, 2023, in the Dallas Division of the Northern District of Texas, the defendant, **Omar Alonso PAZOS-Montes**, an alien, was found in the United States after having been deported and removed therefrom on or about September 4, 2019, without having received the express consent of the United States Attorney General or the Secretary of the Department of Homeland Security to reapply for admission since the time of the defendant's previous deportation and removal.

In violation of 8 U.S.C. § 1326(a), the penalty for which is found at 8 U.S.C. § 1326(b)(1).

A TRUE BILL:

  
FOREPERSON

LEIGHA SIMONTON  
UNITED STATES ATTORNEY

  
NICOLE T. HAMMOND  
Assistant United States Attorney  
District of Columbia Bar No. 1044796  
1100 Commerce Street, Third Floor  
Dallas, Texas 75242  
Tel: 214-659-8713  
Fax: 214-659-8773  
Email: nicole.hammond2@usdoj.gov

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

---

THE UNITED STATES OF AMERICA

v.

OMAR ALONSO PAZOS-MONTES

---

INDICTMENT

8 U.S.C. § 1326(a)

Illegal Reentry After Removal from the United States  
(Count 1)

1 Count

---

A true bill rendered

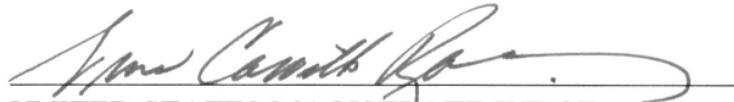
-----  
DALLAS



FOREPERSON

Filed in open court this 25 day of July, 2023.

-----  
**Warrant to be Issued - In State Custody**

-----  


UNITED STATES MAGISTRATE JUDGE

No Criminal Matter Pending

## APPENDIX D

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

|                          |   |                                 |
|--------------------------|---|---------------------------------|
| UNITED STATES OF AMERICA | § |                                 |
|                          | § |                                 |
| Plaintiff                | § |                                 |
| VS.                      | § | Criminal Case No. 3:23-CR-308-S |
|                          | § |                                 |
| OMAR ALONZO PAZOS-MONTES | § |                                 |
|                          | § |                                 |
| Defendant                | § |                                 |

FACTUAL RESUME

In support of the defendant's plea of guilty to the offense in Count One of the one-count Indictment charging a violation of 8 U.S.C §1326(a), Omar Alonzo Pazos-Montes ("Mr. Pazos-Montes"), and his counsel, Hugo Aguilar stipulate and agree to the following:

I. ELEMENTS OF THE OFFENSE

In order to prove a violation of 8 U.S.C §1326(a) as alleged in the indictment, the government must prove each of the following elements beyond a reasonable doubt:

1. That the defendant was an alien at all times alleged in the Indictment;
2. That the defendant had previously been deported or removed from the United States;
3. That sometime after being removed from the United States, the defendant was found in the United States; and
4. That the defendant had not received the express consent of the U.S Attorney General or the Secretary of the Department of Homeland Security to reapply for admission since the time of his previous deportation or removal.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

|                          |   |                                 |
|--------------------------|---|---------------------------------|
| UNITED STATES OF AMERICA | § |                                 |
|                          | § |                                 |
| Plaintiff                | § |                                 |
| VS.                      | § | Criminal Case No. 3:23-CR-308-S |
|                          | § |                                 |
| OMAR ALONZO PAZOS-MONTES | § |                                 |
|                          | § |                                 |
| Defendant                | § |                                 |

FACTUAL RESUME

In support of the defendant's plea of guilty to the offense in Count One of the one-count Indictment charging a violation of 8 U.S.C §1326(a), Omar Alonzo Pazos-Montes ("Mr. Pazos-Montes"), and his counsel, Hugo Aguilar stipulate and agree to the following:

I. ELEMENTS OF THE OFFENSE

In order to prove a violation of 8 U.S.C §1326(a) as alleged in the indictment, the government must prove each of the following elements beyond a reasonable doubt:

1. That the defendant was an alien at all times alleged in the Indictment;
2. That the defendant had previously been deported or removed from the United States;
3. That sometime after being removed from the United States, the defendant was found in the United States; and
4. That the defendant had not received the express consent of the U.S Attorney General or the Secretary of the Department of Homeland Security to reapply for admission since the time of his previous deportation or removal.

## II. PUNISHMENT FOR THE OFFENSE

The maximum penalties a district court can impose for a violation of 8 U.S.C § 1326(a) include the following:

1. Imprisonment for a period not to exceed twenty (20) years in the event that removal was subsequent to the commission of an aggravated felony<sup>1</sup>;
2. a fine not to exceed \$250,000.00 or twice any pecuniary gain to the defendant or loss to the victim(s);
3. the sentencing court may impose a term of supervised release not to exceed three years; if the defendant violates the conditions of supervised release, he could be imprisoned for the entire term of supervised release; and
4. a mandatory special assessment of \$100.00.

## III. SENTENCING IN THIS CASE

Mr. Pazos-Montes has discussed the Sentencing Guidelines<sup>2</sup> with his attorney and understands that the sentence in this case will be imposed by the District Court after it has considered the Guidelines and the factors in 18 U.S.C § 3553(a). However, neither the Guidelines nor 18 U.S.C § 3553(a) are binding and the Court, in its discretion, may sentence Mr. Pazos-Montes to the statutory maximum penalties, if that is a reasonable sentence.

---

<sup>1</sup> The maximum term of imprisonment is ten (10) years if removal was subsequent to a conviction for commission of three or more misdemeanors involving drugs, crimes against the person, or both, a felony (other than an aggravated felony) or occurred during an undischarged term of imprisonment; or a maximum of two years in all other circumstances.

<sup>2</sup> Though undersigned counsel and Mr. Pazo-Montes have discussed how the applicable chapters of the U.S Sentencing Guidelines will apply to him and undersigned counsel and Mr. Pazo-Montes have discussed the potential guideline range in his case, Mr. Pazos-Montes understands that the conversations were about potential punishments and not a guarantee of what the punishment will be. Mr. Pazos-Montes understands that only the district judge in his case will make that decision and that the decision will only be made at the sentencing hearing after the district judge has heard all of the evidence and arguments in his case.



Congress has abolished parole so if the Court sentences Mr. Pazos-Montes to a term of Imprisonment, he will not be released on parole. As a non-U.S. citizen, Mr. Pazos-Montes understands that the instant conviction could negatively affect his ability to ever gain legal status in the United States. Mr. Pazos-Montes understands that, if convicted a defendant who is not a United States citizen may be removed from the United States, denied citizenship and denied admission to the United States in the future.

Mr. Pazos-Montes further understands that a conviction for the instant offense is a felony conviction and that a felony conviction may deprive him of valuable civil rights including the right to vote, the right to hold public office, the right to sit on a jury, and the right to possess a firearm.

#### IV. CONSTITUTIONAL RIGHTS AND WAIVER OF THOSE RIGHTS

Mr. Pazos-Montes understands that he has the following constitutional rights:

1. The right to plead not guilty to the charged offense;
2. The right to have a speedy trial by a jury
3. The right to have his guilt proven beyond a reasonable doubt;
4. The right to confront and cross-examine witnesses and to call and subpoena witnesses in his defense; and
5. The right to not be compelled himself.

Mr. Pazo-Montes waives these rights and pleads guilty to the offense alleged in the one-count Indictment charging him with violating 8 U.S.C. § 1326(a). Mr. Pazos-Montes understands the nature and the elements of the offense for which he is pleading guilty and agrees that the following stipulated facts are true and will be submitted as evidence.

V. STIPULATED FACTS

On or about March 19, 2023 in the Dallas Division of the Northern District of Texas. Omar Pazos-Montes, an alien and a citizen of Mexico, was found in the United States after having been deported and removed therefrom on or about September 4, 2019, without having received the express consent of the U.S. Attorney General or the Secretary of the Department of Homeland Security to reapply for admission to the United States. He admits his conduct violated 8 U.S.C. §1326(a).

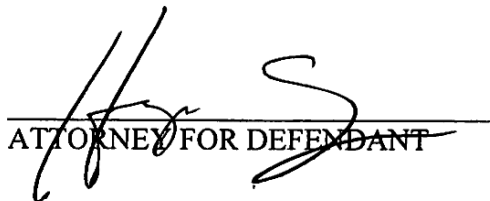
VI. VOLUNTARINESS OF THE PLEA OF GUILTY

Mr. Pazos-Montes has thoroughly reviewed his constitutional rights, the facts of his case, the elements of the offense, the statutory penalties, the Guidelines and 18 U.S.C. §3553(a) with his attorney. Mr. Pazos-Montes has received satisfactory explanations regarding every aspect of this document and the alternatives to signing this document, and he is satisfied with his attorney's representation of him in this case. Mr. Pazos-Montes concedes that he is guilty of offense alleged in Count One of the one count indictment and that it is in his best interests to plead guilty rather than proceed to trial.

AGREED TO AND SIGNED this 27 day of March, 2024.



OMAR ALONSO PAZOS-MONTES



ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing Factual Resume has been served via electronic filing on Ms. Nicole Hammond, the United States Attorney handling this case on this ~~28~~<sup>th</sup> of ~~March~~<sup>March</sup> 2024.

  
\_\_\_\_\_  
HUGO AGUILAR