

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

PEDRO CESAR VILLALOBOS-ESPINOZA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

APPENDIX

/s/ Kevin Joel Page

JASON HAWKINS
Federal Public Defender
Northern District of Texas
TX State Bar No. 00759763
525 Griffin Street, Suite 629
Dallas, TX 75202
(214) 767-2746
(214) 767-2886 Fax

KEVIN J. PAGE **
Assistant Federal Public Defender
Northern District of Texas
TX State Bar No. 24042691
525 Griffin Street, Suite 629
Dallas, TX 75202
(214) 767-2746
(214) 767-2886

INDEX TO APPENDICES

Appendix A Opinion of Fifth Circuit, CA No. 25-10511, *United States v. Villalobos-Espinoza*, 2025 WL 3012285 (5th Cir. Oct. 28, 2025)(unpublished).

Appendix B Judgment and Sentence of the United States District Court for the Northern District of Texas, entered April 9, 2025.
United States v. Villalobos-Espinoza, Dist. Court 4:24-CR-266.

APPENDIX A

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 28, 2025

Lyle W. Cayce
Clerk

No. 25-10511
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

PEDRO CESAR VILLALOBOS-ESPINOZA,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:24-CR-266-1

Before DAVIS, WILSON, and DOUGLAS, *Circuit Judges.*

PER CURIAM:*

Pedro Cesar Villalobos-Espinoza appeals from his guilty plea conviction for illegal reentry in violation of 8 U.S.C. § 1326(a), arguing that the district court unconstitutionally enhanced his sentence under § 1326(b) based on a prior conviction that was not charged in the indictment and either admitted by him or found by a jury beyond a reasonable doubt. He concedes

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

No. 25-10511

that his argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), and he seeks to preserve the issue for further review. The Government has filed an unopposed motion for summary affirmance or, alternatively, for an extension of time to file a merits brief.

The parties are correct that the sole argument that Villalobos-Espinoza raises on appeal 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) (stating 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 Government’s motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED. The alternative motion for an extension of time is DENIED.

APPENDIX B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
Fort Worth Division

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

Case Number: 4:24-CR-266-Y(1)

Frank L. Gatto, assistant U.S. attorney

PEDRO CESAR VILLALOBOS-
ESPINOZA

Devon J. Sanders, attorney for the defendant

On December 18, 2024, the defendant, Pedro Cesar Villalobos-Espinoza, entered a plea of guilty to count one of the one-count indictment. Accordingly, the defendant is adjudged guilty of such count, which involves the following offense:


<u>TITLE & SECTION</u>	<u>NATURE OF OFFENSE</u>	<u>OFFENSE CONCLUDED</u>	<u>COUNT</u>
8 U.S.C. § 1326(a) and (b)(2)	Illegal Reentry After Deportation	November 19, 2023	1

The defendant is sentenced as provided in pages two and three of this judgment. The sentence is imposed under Title 18, United States Code § 3553(a), taking the guidelines issued by the United States Sentencing Commission under Title 28, United States Code § 994(a)(1), as advisory only.

The defendant shall pay immediately a special assessment of \$100.00 for count one of the one-count indictment.

The defendant shall notify the United States attorney for this district within thirty 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.

Sentence imposed April 8, 2025.


TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

Signed April 9, 2025.

IMPRISONMENT

The defendant, Pedro Cesar Villalobos-Espinoza, is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 42 months on count one of the one-count indictment, to run consecutively to any future sentence that may be imposed in case no. F2455927 in Criminal District Court No. 1, Dallas County, Texas; and case no. M2455784 in Criminal Court No. 3, Dallas County, Texas.

The defendant is remanded to the custody of the United States marshal.

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of 3 years on count one of the one-count indictment.

Under 18 U.S.C. § 3583(d), as a condition of supervised release 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 the established procedures provided by the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq. As a condition of supervised release, if ordered deported, the defendant shall remain outside the United States.

In the event the defendant is not deported immediately 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, while on supervised release, shall comply with the standard conditions recommended by the U.S. Sentencing Commission at §5D1.3(c) of the U.S. Sentencing Commission Guidelines Manual and shall:

not commit another federal, state, or local crime;

not possess illegal controlled substances;

not possess a firearm, destructive device, or other dangerous weapons;

cooperate in the collection of DNA as directed by the probation officer, as authorized by the Justice for All Act of 2004;

report in person to the probation officer in the district to which the defendant is released from the custody of the Federal Bureau of Prisons, or in which the defendant makes entry into the United States, within 72 hours of release or entry;

not illegally re-enter the United States, if deported, removed, or allowed voluntary departure;

refrain from any unlawful use of a controlled substance. The defendant 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; and

participate in an outpatient program approved by the probation officer for treatment of narcotic or drug or alcohol dependency that will include testing for the detection of substance use, abstaining from the use of alcohol and all other intoxicants during and after completion of treatment, contributing to the costs of services rendered (copayment) at the rate of at least \$25 per month.

FINE/RESTITUTION

The Court does not order a fine or costs of incarceration because the defendant does not have the financial resources or future earning capacity to pay a fine or costs of incarceration.

Restitution is not ordered because there is no victim other than society at large.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

United States marshal

BY _____
deputy marshal