

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 2025

No.

JUAN IBARRA-GARCIA,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent

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

Susan M. Pavlow
Attorney at Law
53 West Jackson Boulevard
Suite 1550
Chicago, Illinois 60604
312-322-0094
smpavlow@mac.com

Counsel of Record

QUESTION PRESENTED FOR REVIEW

Whether a prior conviction, which extends the statutory maximum term of imprisonment, is an element of the offense that should be submitted to a jury or admitted at a plea hearing, overruling *Almendarez v. Torres*, 523 U.S. 224 (1998).

PARTIES TO THE PROCEEDING

Petitioner, Juan Ibarra-Garcia, was the defendant in the Northern District of Illinois and the appellant in the Seventh Circuit Court of Appeals

Respondent, United States of America, was the plaintiff in the Northern District of Illinois, and the appellee in the Seventh Circuit Court of Appeals.

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Petitioner, Juan Ibarra-Garcia, respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Seventh Circuit, entered on December 31, 2026, as an unreported opinion in *United States v. Juan Ibarra-Garcia*, 2025 WL 3771351.

OPINION BELOW

The unreported opinion of the Court of Appeals is attached as Appendix A to this petition.

JURISDICTIONAL STATEMENT

The Court of Appeals for the Seventh Circuit entered its judgment on December 31, 2025, and petitioner did not seek rehearing. The jurisdiction of this Honorable Court is invoked pursuant to 28 U.S.C. §1254(1).

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

The Fifth Amendment to the United States Constitution guarantees that “No person shall be held to answer for a capital or other infamous crime, unless on presentment or indictment from a Grand Jury, . . .nor be deprived of life, liberty, or property without due process of law.” U.S. Const. amend. V.

The Sixth Amendment to the U.S. Constitution guarantees the right to trial by an impartial jury and proper notice of the charges. U.S. Const. amend. VI.

Title 8 U.S.C. §1326 criminalizes unlawful reentry into the United States after removal. The text of the statute is attached as Appendix B.

STATEMENT OF THE CASE

I. Proceedings in the District Court

Mr. Ibarra-Garcia plead guilty to a single-count indictment charging Illegal Reentry in violation of Title 8, United States Code, §1326(a) and (b)(2) after having been previously deported. At the time of the plea, the parties advised the district court of a dispute regarding the statutory maximum penalty. Although the indictment alleged a violation of §1326 (b)(2), both parties agreed this subsection, which imposed a 20-year statutory maximum, did not apply because Ibarra-Garcia had no prior conviction for an aggravated felony. The defense asserted the maximum sentence would be two years pursuant to §1326(a). The government posited that subsection (b), which imposed a 10-year maximum, should apply because Mr. Ibarra-Garcia's prior conviction was a sentencing factor and not an element the offense pursuant to *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). Subsection (b)(2) was neither plead in the indictment, nor admitted by Mr. Ibarra-Garcia at the plea hearing. At sentencing, the district court found the 10-year statutory maximum applied based on *Almendarez-Torres* and imposed a 46-month term of imprisonment and a one-year term of supervised release.

II. The Seventh Circuit's Opinion

The Seventh Circuit affirmed Mr. Ibarra-Garcia's conviction and sentence holding that *Almendarez-Torres* was binding precedent. *United States v. Ibarra-Garcia*, 2025 WL 3771351. The opinion is not reported in the federal reporter.

REASONS FOR GRANTING THE WRIT

The prior conviction exception of *Almendarez-Torres* should be overruled.

In *Almendarez-Torres* the United States Supreme Court held that judges were allowed to determine prior convictions that would increase the penalties under §1326(b). But this holding was an outlier from the beginning. In *Apprendi v. United States*, 530 U.S. 466 (2000), the Supreme Court confirmed the Sixth Amendment right to a jury determination for any fact that increases the statutory maximum as an element of the offense that must be alleged in the indictment and proven to a jury beyond a reasonable doubt. *Alleyne v. United States*, 570 U.S. 99 (2013), then applied *Apprendi*'s principle to mandatory minimums, confirming that “the indictment must contain an allegation of every fact which is legally essential to the punishment to be inflicted.” *Id.* at 2160. *Apprendi* recognized that *Almendarez-Torres* represented a “narrow exception to the general rule” while *Alleyne* acknowledged it may have been “incorrectly decided” but neither case presented the precise issue for review. *Apprendi*, 530 U.S. at 489-90; *Alleyne*, 570 U.S. at 112, n.1.

Recently, in *Erlinger v. United States*, 144 S.Ct. 1840 (2024), the United States Supreme Court reaffirmed its commitment to a jury determination for any fact that increases the statutory maximum sentence. It held a defendant was entitled to have a jury determine whether prior convictions were committed on separate occasions to trigger the 15-year mandatory minimum under the Armed Career Criminal Act. In doing so, the Supreme Court addressed the government's reliance on *Almendarez-Torres* and acknowledged this exception was “at best an exceptional departure from

historical practice.” *Id.* at 1853. The *Almendarez-Torres* exception received significant criticism and “Justice Thomas, whose vote was essential to the majority in that case, has called for it to be overruled.” *Id.* See also, *Shepard v. United States*, 544 U.S. 13, 27-28 (2005) (Thomas, J., concurring) (acknowledging that “a majority of the Court now recognizes that *Almendarez-Torres* was wrongly decided” and that “in an appropriate case, this Court should consider *Almendarez-Torres*’ continuing viability.); *Decamps v. United States*, 570 U.S. 254, 280 (2013) (Thomas, J., concurring) (“Under the logic of *Apprendi*, a court may not find facts about a prior conviction when such findings increase the statutory maximum. This is so whether a court is determining whether a prior conviction was entered, or attempting to discern what facts were necessary to a prior conviction.”) (citations omitted).

Almendarez-Torres should be overruled. *Erlinger* now requires a jury finding about when prior convictions occurred. The existence of the prior conviction should likewise be an element of the offense. The precedential value of *Almendarez-Torres* is strained to an untenable degree because *Apprendi*’s historical analysis “has become...firmly rooted in the court’s Sixth Amendment jurisprudence.” See, *Alleyne*, 570 U.S. at 120 (Sotomayor, J., concurring). Any fact, including a prior conviction, is an element of the offense that requires an indictment, followed by a jury finding or admission at a plea hearing, to extend the statutory maximum sentence.

This case provides the opportunity to reconsider and overrule *Almendarez-Torres*. Neither the indictment nor the admissions during the plea hearing refer to

any prior convictions.¹ Ibarra-Garcia plead guilty to §1326(a) only and should have been sentenced to no more than 24 months. His 46-month sentence means he will be serving 22 months imprisonment beyond the statutory maximum. Unlike the cases cited above, Ibarra-Garcia squarely challenged the extended term based on a prior conviction that was neither plead nor admitted.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Dated this 30th day of March, 2026, at Chicago, Illinois.

Respectfully submitted,

/s/ Susan M. Pavlow _____
Susan M. Pavlow
Attorney for Defendant-Appellant
53 West Jackson Boulevard, Suite 1550
Chicago, Illinois 60604
(312) 322-0094
smpavlow@mac.com

¹ Although the indictment referred to subsection (b)(1), both parties agreed Mr. Ibarra-Garcia did not have an aggravated felony necessary to apply this statutory maximum.

APPENDIX

Opinion of Seventh Circuit, *United States v. Juan Ibarra-Garcia*.....A-1
18 U.S.C. §1326.....A-2