

Case: 25-10828 Document: 60-1 Page: 1 Date Filed: 03/12/2026

United States Court of Appeals
for the Fifth Circuit

No. 25-10828
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 12, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

HILARIO CORONA BOTELLO,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:24-CR-312-1

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

PER CURIAM:*

Hilario Corona Botello appeals following his conviction for illegal reentry in violation of 8 U.S.C. § 1326(a) and (b)(1), arguing that the statutory sentencing enhancement in § 1326(b) is unconstitutional. He concedes this argument is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998). The Government filed an unopposed motion for

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

No. 25-10828

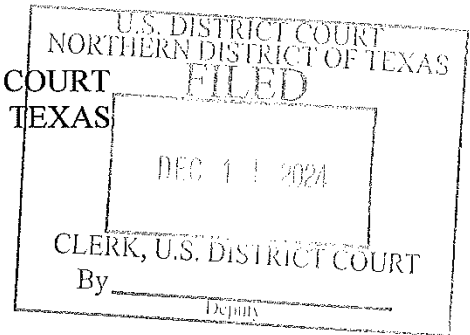
summary affirmance or, alternatively, for an extension of time in which to file a brief.

Corona Botello concedes his arguments are 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” (cleaned up)). 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.

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION



UNITED STATES OF AMERICA

v.

No.

HILARIO CORONA-BOTELLA (01)

4-24CR-312-0

INDICTMENT

The Grand Jury Charges:

Count One

Illegal Reentry After Deportation
(Violation of 8 U.S.C. § 1326(a) and (b)(1))

On or about August 7, 2024, in the Fort Worth Division of the Northern District of Texas, defendant, **Hilario Corona-Botella**, an alien, was found in the United States having previously been deported and removed from the United States on or about March 7, 2024, and the defendant had not received the consent of the Attorney General of the United States or the Secretary of the Department of Homeland Security, to reapply for admission to the United States.

In violation of 8 U.S.C. § 1326(a) and (b)(1).

A TRUE BILL.


FOREPERSON

LEIGHA SIMONTON
UNITED STATES ATTORNEY


JUSTIN BECK
Assistant United States Attorney
Texas State Bar No. 24133053
801 Cherry Street, Suite 1700
Fort Worth, TX 76102
Telephone: 817-252-5200
Facsimile: 817-252-5455
Email: justin.beck@usdoj.gov

Indictment—Page 2

25-10828.9

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA

v.

HILARIO CORONA-BOTELLO (01)

No. 4:24-CR-312-O

FACTUAL RESUME

I. Plea:

Count One: Illegal Reentry after Deportation, in violation of 8 U.S.C. §§
1326(a) & (b)(1).

II. Maximum Penalties:

The maximum penalties the Court can impose include:

- a. a term of imprisonment not to exceed ten (10) years;
- b. a fine not to exceed \$250,000;
- c. a term of supervised release not to exceed three (3) years, which can be revoked and the defendant sentenced to an additional period of confinement if the defendant violates the conditions of supervised release;
- d. a mandatory special assessment of \$100;
- e. costs of incarceration and supervision; and
- f. potential consequences with respect to the defendant's immigration status, including removal from the United States and other immigration consequences, even though such consequences are the subject of a separate proceeding.

III. Essential Elements of the Offense:

In order to establish the offense alleged in Count One, the government must prove the following elements beyond a reasonable doubt:

- First: That on or about the date alleged, the defendant was an alien;
- Second: That the defendant was previously removed from the United States;
- Third: That the defendant was found in the United States; and
- Fourth: That the defendant had not received the express consent of either the Attorney General of the United States or the Secretary of the Department of Homeland Security to reapply for admission to the United States since the time of the defendant's previous removal.

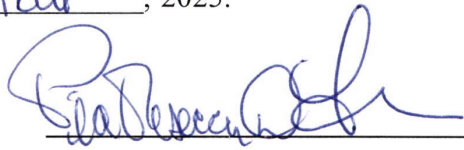
IV. Stipulation of Facts:

Hilario Corona-Botello (Corona) is a citizen and national of Mexico with no legal status in the United States. On March 7, 2024, Corona was deported and removed to Mexico through El Paso, Texas. On August 7, 2024, Corona was encountered by immigration authorities at the Arlington City Jail, within the Fort Worth Division of the Federal Northern District of Texas. Corona had re-entered the United States illegally, and he had not applied for nor received permission from the Attorney General of the United States or the Secretary of the Department of Homeland Security to reapply for admission to the United States at any time after being deported.

SIGNED on this the 12th day of March, 2025.



HILARIO CORONA-BOTELLO
Defendant



PIA LEDERMAN
Attorney for Defendant

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-00312-O(01)

U.S. Marshal's No.: 60917-511

Justin C Beck, Assistant U.S. Attorney

Pia R Lederman, Attorney for the Defendant

HILARIO CORONA BOTELLO

On March 26, 2025 the defendant, HILARIO CORONA BOTELLO, entered a plea of guilty as to Count One of the Indictment filed on December 11, 2024. Accordingly, the defendant is adjudged guilty of such Count, which involves the following offense:

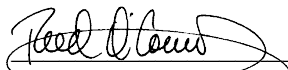
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
8 U.S.C. § 1326(a) and (b)(1)	Illegal Reentry After Deportation	08/07/2024	One

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to Title 18, United States Code § 3553(a), taking the guidelines issued by the United States Sentencing Commission pursuant to Title 28, United States Code § 994(a)(1), as advisory only.

The defendant shall pay immediately a special assessment of \$100.00 as to Count One of the Indictment filed on December 11, 2024.

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 July 11, 2025.


 REED O'CONNOR
 U.S. DISTRICT JUDGE

Signed July 11, 2025.

Judgment in a Criminal Case
Defendant: HILARIO CORONA BOTELLO
Case Number: 4:24-CR-00312-O(1)

Page 2 of 4

IMPRISONMENT

The defendant, HILARIO CORONA BOTELLO, is hereby committed to the custody of the Federal Bureau of Prisons (BOP) to be imprisoned for a term of **THIRTY-SEVEN (37) MONTHS** as to Count One of the Indictment filed on December 11, 2024. This sentence shall run consecutively to the defendant's undischarged term of imprisonment in Case Nos. 1833798 and 1836641 in the 432nd Judicial District Court, Tarrant County, Texas, as they are unrelated to the instant offense.

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 **THREE (3) YEARS** as to Count One of the Indictment filed on December 11, 2024.

As a condition of supervised release, upon the completion of the sentence of imprisonment, the defendant shall be surrendered to a duly-authorized immigration official for deportation in accordance with the established procedures provided by the Immigration and Nationality Act, 8 USC § 1101 et seq. As a further condition of supervised release, if ordered deported or removed, 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 shall also comply with the standard conditions contained in the Judgment and shall comply with the mandatory and special conditions stated herein.

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, 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.

Judgment in a Criminal Case

Page 3 of 4

Defendant: HILARIO CORONA BOTELLO

Case Number: 4:24-CR-00312-O(1)

- (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.

In addition the defendant shall:

not commit another federal, state, or local crime;

not illegally possess controlled substances;

cooperate in the collection of DNA as directed by the probation officer;

not possess a firearm, ammunition, destructive device, or any dangerous weapon;

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;

pay the assessment imposed in accordance with 18 U.S.C. § 3013; and,

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

Judgment in a Criminal Case

Page 4 of 4

Defendant: HILARIO CORONA BOTELLO

Case Number: 4:24-CR-00312-O(1)

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