

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

April 17, 2012

Lyle W. Cayce
Clerk

No. 11-50636
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ANDRES HERNANDEZ-VILLAFUERTE,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:10-CR-1648-1

Before JONES, Chief Judge, and JOLLY and SMITH, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Andres Hernandez-Villafuerte raises arguments that he concedes are foreclosed by *United States v. Gomez-Herrera*, 523 F.3d 554, 562-63 (5th Cir. 2008), which held that the disparity in sentences that occurs because some defendants can participate in a fast-track program while others cannot is not “unwarranted” within the meaning of 18 U.S.C. § 3553(a)(6). The Government’s motion for summary affirmance is GRANTED, the Government’s alternative motion for an extension

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.