

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

No. 14-40984
Conference Calendar

United States Court of Appeals
Fifth Circuit

FILED

June 16, 2015

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

FERNANDO TOVAR-ESPINOZA,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:13-CR-457-1

Before DAVIS, JONES, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Fernando Tovar-Espinoza raises an argument that he concedes is foreclosed by *United States v. Morales-Mota*, 704 F.3d 410, 412 (5th Cir. 2013), which rejected the argument that the Texas offense of “burglary of a habitation” is broader than the generic, contemporary definition of “burglary of a dwelling” under U.S.S.G. § 2L1.2(b)(1)(A)(ii) because it defines the “owner” of a habitation as a person

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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with a “greater right to possession of the property than the actor.” Accordingly, the motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.