

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

United States Court of Appeals
Fifth Circuit

FILED

February 12, 2010

Charles R. Fulbruge III
Clerk

No. 09-50474

Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

OMAR CARRIZOSA-FLORES,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:09-CR-281-1

Before GARZA, DENNIS, and ELROD, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Omar Carrizosa-Flores presents arguments that he concedes are foreclosed by *United States v. Cepeda-Rios*, 530 F.3d 333, 335-36 (5th Cir. 2008), which held that even after *Lopez v. Gonzales*, 549 U.S. 47 (2006), a second state conviction for simple possession of a controlled substance qualifies as an aggravated felony that supports the imposition of an eight-level enhancement under United States Sentencing Guideline § 2L1.2(b)(1)(C). The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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