

**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

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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