

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

No. 15-41327
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
November 29, 2016
Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JACOB MATTHEW MARTINEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:11-CR-1381-1

Before REAVLEY, OWEN, and ELROD, Circuit Judges.

PER CURIAM:*

Jacob Matthew Martinez pleaded guilty to one count of interfering with commerce by threats or violence in violation of 18 U.S.C. § 1951(a). On remand, he was resentenced to 87 months of imprisonment, three years of supervised release, \$223,627.40 in restitution, and a \$100 special assessment.

As he did in his previous appeal, *see United States v. Martinez*, 614 F. App'x 165, 166 n.1 (5th Cir. 2015), Martinez contends that § 1951(a) is

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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unconstitutional on its face and as applied to his case. He concedes that his arguments are foreclosed by circuit precedent but seeks to preserve the issues for further review.

The appeal was stayed pending the Supreme Court's decision in *Taylor v. United States*, 136 S. Ct. 2074 (2016). *Taylor* has now been decided, and the Government has filed an unopposed motion for summary affirmance asserting that Martinez's arguments remain foreclosed by circuit precedent. In the alternative, the Government requests an extension of time in which to file a brief on the merits.

"Generally, the law of the case doctrine precludes reexamination by the appellate court on a subsequent appeal of an issue of law or fact decided on a previous appeal." *United States v. Agofsky*, 516 F.3d 280, 283 (5th Cir. 2008). Because we rejected Martinez's challenges to the constitutionality of § 1951(a) in his previous appeal, *see Martinez*, 614 F. App'x at 166 n.1, and none of the exceptions to the law of the case doctrine apply, *see Agofsky*, 516 F.3d at 283, the Government's motion for summary affirmance is GRANTED, the alternative motion for an extension of time to file a brief is DENIED, and the district court's judgment is AFFIRMED.