

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

No. 16-40086
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 19, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

OSCAR REYNA-LOZANO,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:15-CR-1272-1

Before KING, DENNIS, and COSTA, Circuit Judges.

PER CURIAM:*

Oscar Reyna-Lozano appeals the sentence imposed following his guilty plea conviction for illegal reentry after deportation. He contends that the district court erred in increasing his offense level pursuant to U.S.S.G. § 2L1.2(b)(1)(A)(ii) based on his prior Texas conviction for burglary of a habitation under Texas Penal Code § 30.02. Reyna-Lozano argues, under *Mathis v. United States*, 136 S. Ct. 2243 (2016), that the Texas burglary statute

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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is not divisible and that not every violation of § 30.02(a) qualifies as a crime of violence under § 2L1.2(b)(1)(A)(ii).

The Government has filed an opposed motion for summary affirmance asserting that Reyna-Lozano's arguments are foreclosed by our recent decision in *United States v. Uribe*, 838 F.3d 667 (5th Cir. 2016), *cert. denied*, 2017 WL 661924 (Mar. 20, 2017) (No. 16-7969). In the alternative, the Government requests an extension of time in which to file a brief on the merits.

The Government is correct that *Uribe* forecloses Reyna-Lozano's *Mathis* argument. *See Uribe*, 838 F.3d at 669-71. Accordingly, 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 judgment of the district court is AFFIRMED.