

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

No. 16-40249
Conference Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 18, 2016

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

RAFAEL MORENO-ORNELLAS,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:14-CR-1714-1

Before HIGGINBOTHAM, JONES, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Rafael Moreno-Ornellas raises arguments that are foreclosed by *United States v. Rodriguez*, 711 F.3d 541, 562-63 & n.28 (5th Cir. 2013) (en banc), in which we held that the generic, contemporary definition of sexual abuse of a minor does not require the age of consent to be below 17 years old and does not include an age-differential requirement. He also raises an argument that is foreclosed by *United States*

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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v. Elizondo-Hernandez, 755 F.3d 779, 781-82 (5th Cir. 2014), which held that the Texas offense of indecency with a child by contact satisfied the generic definition of sexual abuse of a minor. Finally, he raises an argument that is foreclosed by *United States v. Teran-Salas*, 767 F.3d 453, 458-62 (5th Cir. 2014), in which we determined that the appellant was not entitled to relief based merely on the existence of a theoretical possibility that a defendant could be convicted under Texas Health & Safety Code § 481.112(a) for conduct that would not qualify as a federal drug trafficking offense. Accordingly, the motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.