

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

No. 17-30387
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

November 9, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MELVIN JACKSON, also known as Melvo Jackson,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:13-CR-189-1

Before JOLLY, OWEN, and HAYNES, Circuit Judges.

PER CURIAM:*

Melvin Jackson was convicted of conspiracy, being a felon in possession of a firearm, and possession with the intent to distribute heroin. *United States v. Jackson*, 662 F. App'x 310, 312 (5th Cir. 2016). On appeal, Jackson raised several issues, including a constitutional challenge to his sentence that was foreclosed by *United States v. Hernandez*, 633 F.3d 370, 374 (5th Cir. 2011). *See Jackson* 662 F. App'x at 312, 319. We affirmed Jackson's conviction but

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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vacated and remanded the sentence for further consideration of the application of a sentencing enhancement based on the severity of the injury to the victim. *Id.* at 318-20. On remand, the district court found that the sentencing enhancement was appropriate. Jackson does not challenge this finding.

On appeal, Jackson states that in his initial appeal he raised the issue that his sentence was unconstitutional because it was based on uncharged conduct. Jackson concedes that this argument is foreclosed by *Hernandez*, but he raises the issue again to preserve it for possible further review. Accordingly, Jackson's unopposed motion for summary disposition is GRANTED, his alternative motion for an extension of time is DENIED, and the district court's judgment is AFFIRMED.