

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

United States Court of Appeals
Fifth Circuit

FILED

April 16, 2013

Lyle W. Cayce
Clerk

No. 12-41089

Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE ROSARIO JAIMES YANEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:12-CR-322-1

Before JOLLY, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Jose Rosario Jaimes Yanez raises arguments that he concedes are foreclosed by *United States v. Newson*, 515 F.3d 374, 377-78 (5th Cir. 2008), which held that the Government may decline to move for an additional one-point reduction under United States Sentencing Guidelines § 3E1.1(b) based on the defendant's refusal to waive his right to appeal. The appellant's motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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