

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

November 5, 2008

Charles R. Fulbruge III
Clerk

No. 08-10437

Conference Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JOSE ROBERTO LOPEZ

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 6:07-CR-65-ALL

Before DAVIS, STEWART, and DENNIS, Circuit Judges.

PER CURIAM:*

Appealing the Judgment in a Criminal Case, Jose Roberto Lopez presents arguments that he concedes are foreclosed by *United States v. Gomez-Herrera*, 523 F.3d 554, 557-64 (5th Cir.), petition for cert. filed (July 2, 2008) (No. 08-5226) which held that any disparity in sentencing between fast-track and non-fast-track jurisdictions is a function of Congressional policy and is not "unwarranted" under 18 U.S.C. § 3553(a)(6), and by *United States v. Rodriguez*, 523 F.3d 519, 526-27 (5th Cir.), petition for cert. filed (June 30, 2008) (No. 08-5101) which held that the lack of a fast-track program does not result in a violation of equal

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

protection rights. See also *United States v. Lopez-Velasquez*, 526 F.3d 804, 808 (5th Cir.), petition for cert. filed (July 25, 2008) (No. 08-5514). The appellant's motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.