

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

United States Court of Appeals  
Fifth Circuit

**FILED**

June 22, 2010

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 09-11137

Conference Calendar  
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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

PETER M. ESPINOSA,

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:09-CR-80-1  
\_\_\_\_\_

Before JOLLY, STEWART, and OWEN, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Peter M. Espinosa presents arguments that he concedes are foreclosed as this court has repeatedly held that a sentencing judge may find by a preponderance of the evidence all the facts necessary to the determination of a sentencing guidelines range. *See, e.g., United States v. Rhine*, 583 F.3d 878, 891 (5th Cir. 2009); *United States v. Stevens*, 487 F.3d 232, 245-46 (5th Cir. 2007); *United States v. Johnson*, 445 F.3d

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

793, 798 (5th Cir. 2006). The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.