

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

October 20, 2009

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No. 09-50074  
Conference Calendar

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Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ALEJANDRO Z PENA,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 7:08-CR-127-ALL

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Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Alejandro Z. Pena presents arguments that are foreclosed by *United States v. Whaley*, 577 F.3d 254, 258-61 (5th Cir. 2009), in which this court rejected a commerce clause challenge to the Sex Offender Registration and Notification Act. The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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