

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

United States Court of Appeals  
Fifth Circuit

**FILED**

October 20, 2009

\_\_\_\_\_  
No. 09-50292  
Conference Calendar  
\_\_\_\_\_

Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MICHAEL JOSEPH MCKINLEY,

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 6:08-CR-189-1  
\_\_\_\_\_

Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Michael Joseph McKinley raises arguments that are foreclosed by *United States v. Beydoun*, 469 F.3d 102, 108 (5th Cir. 2006), which held that there is no violation of rights under the Confrontation Clause when hearsay testimony is used at sentencing. 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

