

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

United States Court of Appeals
Fifth Circuit

FILED

August 17, 2010

Lyle W. Cayce
Clerk

No. 09-51013

Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

LUIS PINEDO-MORALES,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:09-CR-1083-1

Before DAVIS, SMITH, and WIENER, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Luis Pinedo-Morales presents arguments that he concedes are foreclosed by *United States v. Gomez-Herrera*, 523 F.3d 554, 562-63 (5th Cir. 2008), which held that the disparity between sentences of defendants who can participate in a fast-track program and defendants who cannot is not “unwarranted” within the meaning of 18 U.S.C. § 3553(a)(6). The Government’s motion for summary affirmance 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.