

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

United States Court of Appeals
Fifth Circuit

FILED

October 26, 2010

Lyle W. Cayce
Clerk

No. 10-40245
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE CLEMENTE HERNANDEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:09-CR-957-1

Before SMITH, DENNIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Jose Clemente Hernandez presents arguments that he concedes are foreclosed by *United States v. Bishop*, 603 F.3d 279, 281-82 (5th Cir. 2010), *cert. denied*, 2010 WL 2717786 (Oct. 4, 2010) (No. 10-5298), which held that the imposition of a condition of supervised release ordering Hernandez “to participate in a mental health program as deemed necessary and approved by the probation officer” did not constitute plain error. The appellant’s unopposed motion for summary disposition 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.