

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

April 17, 2012

Lyle W. Cayce
Clerk

No. 11-30366
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

KERRY K. OWENS,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:10-CR-261-5

Before JONES, Chief Judge, and JOLLY and SMITH, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Kerry K. Owens raises arguments that are foreclosed by *United States v. Tickle*, 661 F.3d 212, 214-15 (5th Cir. 2011), *petitions for cert. filed* (Dec. 5, 2011) (No. 11-8023) *and* (Dec. 27, 2011) (No. 11-8628), which held that the Fair Sentencing Act of 2010 (FSA) does not apply retroactively to a defendant who is sentenced after the effective date of the FSA but whose offense preceded the FSA's effective date.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 11-30366

The Government's motion for summary affirmance is GRANTED, the Government's alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.