

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

August 20, 2013

Lyle W. Cayce
Clerk

No. 12-20730
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CESAR HERNANDEZ LOZANO, also known as Cesar Lozano Hernandez, also known as Cesar Hernandez-Lozano, also known as Cesar L. Hernandez,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:12-CR-343-1

Before HIGGINBOTHAM, SMITH, and GRAVES, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Cesar Hernandez Lozano raises an argument that he concedes is foreclosed by *United States v. Morales-Mota*, 704 F.3d 410, 412 (5th Cir.), *cert. denied*, 133 S. Ct. 2374 (2013). In *Morales-Mota*, 704 F.3d at 412, this court, relying upon its holding in *United States v. Joslin*, 487 F. App'x 139, 141-43 (5th Cir. 2012), *cert. denied*, 133 S. Ct. 1847 (2013), rejected the argument that the Texas offense of “burglary of a

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 12-20730

habitation” is outside the generic, contemporary definition of “burglary of a dwelling” under U.S.S.G. § 2L1.2(b)(1)(A)(ii) because it defines the “owner” of a habitation as a person with a “greater right to possession.” Accordingly, the Government’s motion for summary affirmance is GRANTED, its alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.