

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

United States Court of Appeals
Fifth Circuit

FILED

December 17, 2013

No. 13-10260
Conference Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ANICETO BELTRAN VARGAS,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:12-CR-198-1

Before DAVIS, DENNIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Aniceto Beltran Vargas raises an argument that he concedes is foreclosed by *United States v. Rhine*, 583 F.3d 878, 891 & n.50 (5th Cir. 2009), which held that a sentencing judge may find by a preponderance of the evidence all the facts necessary to the determination of a sentencing guidelines range. *See also United States v. Stevens*, 487 F.3d 232, 246 (5th Cir. 2007); *United States v. Johnson*, 445 F.3d 793, 798 (5th Cir. 2006). The Government's motion for summary affirmance is GRANTED, the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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