

**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. 13-40075
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MARCOS TULIO RIVERA-ALFARO, also known as Marco Tulio Rivera,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:11-CR-1644-1

Before HIGGINBOTHAM, SMITH, and GRAVES, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Marcos Tulio Rivera-Alfaro raises an argument that he concedes is foreclosed by *United States v. Rodriguez*, 711 F.3d 541, 562 n.28 (5th Cir. 2013) (en banc), *petition for cert. filed* (June 6, 2013) (No. 12-10695), in which this court concluded that the generic, contemporary definition of “sexual abuse of a minor” does not include the age-differential requirement that Rivera-Alfaro asserts is required. The appellant’s

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 13-40075

motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.