

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

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No. 13-40716  
Conference Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

April 16, 2014

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

SALVADOR ANTONIO FERNANDEZ-MONTANO,

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 1:08-CR-403-1

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Before PRADO, ELROD, and HAYNES, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Salvador Antonio Fernandez-Montano 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at 412, this court, relying upon its holding in *United States v. Joslin*, 487 F. App'x 139, 141-43 (5th Cir. 2012) (unpublished), *cert. denied*, 133 S. Ct. 1847 (2013), rejected the argument that the Texas offense of

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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“burglary of a 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, Fernandez-Montano’s unopposed motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.