

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

No. 13-40859
Conference Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 16, 2014

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

FIDEL ALFARO-JIMENEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:13-CR-663-1

Before PRADO, ELROD, and HAYNES, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Fidel Alfaro-Jimenez 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at 412, this court, relying upon its holding in *United States v. Joslin*, 487 F. App'x 139, 141-43 (5th Cir. 2012) (unpublished), *cert.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 “burglary

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 13-40859

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, Alfaro-Jimenez’s unopposed motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.