

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

No. 14-10076
Conference Calendar

United States Court of Appeals
Fifth Circuit

FILED

November 4, 2014

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DUSTIN PULIDO,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:12-CR-249-4

Before JOLLY, HIGGINBOTHAM, and OWEN, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Dustin Pulido raises an argument that he concedes is foreclosed by *United States v. Hernandez*, 633 F.3d 370, 374 (5th Cir. 2011), which held that a sentence within the statutory maximum that is based upon judge-found facts does not violate the Sixth Amendment. Accordingly, the unopposed motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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