

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

No. 14-20174
Conference Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 21, 2015

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ORLANDO FRANCO-ALARCON, also known as Orlando Adan Franco, also known as Orlando Franco Alarcon, also known as Orlando A. Franco, also known as XX Hondaboy, also known as Sergio Alarcon,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:13-CV-652-1

Before REAVLEY, SMITH, and GRAVES, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Orlando Franco-Alarcon raises arguments that are foreclosed by *United States v. Rodriguez-Salazar*, 768 F.3d 437, 437-38 (5th Cir. 2014), and *United States v. Morales-Mota*, 704 F.3d 410, 412 (5th Cir. 2013). In *Rodriguez-Salazar*, we rejected the argument that the Texas offense of theft is broader than the generic, contemporary

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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definition of theft because the Texas offense, which includes theft by deception, may be committed by taking property with the owner's consent. *Rodriguez-Salazar*, 768 F.3d at 437-38. In *Morales-Mota*, we rejected the argument that the Texas offense of "burglary of a habitation" is broader than 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 of the property than the actor." *Morales-Mota*, 704 F.3d at 412. Accordingly, the unopposed motion for summary affirmance is GRANTED, the alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.