

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

No. 14-41207
Conference Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 22, 2015

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

GABRIEL GARCIA-GAONA,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:14-CR-643-1

Before HIGGINBOTHAM, DENNIS, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Gabriel Garcia-Gaona raises an argument that is foreclosed by our holding in *United States v. Martinez-Lugo*, 782 F.3d 198, 204-05 (5th Cir. 2015), *petition for cert. filed* (June 19, 2015) (No. 14-10355), that an enhancement under U.S.S.G. § 2L1.2(b)(1)(A)(i) for a prior conviction of a drug trafficking offense is warranted regardless

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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whether the conviction for the prior offense required proof of remuneration or commercial activity.

Accordingly, the Government's 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.