

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

No. 16-41155
Conference Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 21, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JAVIER GARCIA-MARTINEZ, also known as Luis Javier Martinez, also known as Luis Martinez-Perez, also known as Luis Javier-Garcia Martinez,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:16-CR-273-1

Before JOLLY, PRADO, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Javier Garcia-Martinez appeals from a judgment of conviction. He concedes that his only argument is foreclosed by *United States v. Rodriguez-Salazar*, 768 F.3d 437 (5th Cir. 2014). In that opinion, this court rejected the argument that the Texas offense of theft is broader than the generic, contemporary definition of theft because the Texas offense, which includes

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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theft by deception, may be committed by taking property with the owner's consent. *Id.* at 437-38. Garcia-Martinez was convicted of theft under a Tennessee statute that includes a similar theft by deception provision. We agree with Garcia-Martinez that his argument that the Tennessee statute falls outside the generic definition of theft is foreclosed by *Rodriguez-Salazar*. Accordingly, the motion for summary disposition is GRANTED, and the judgment of the district court is AFFIRMED.