

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

United States Court of Appeals
Fifth Circuit

FILED

February 15, 2011

Lyle W. Cayce
Clerk

No. 10-50275
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE GUADALUPE ESCARENO HERNANDEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:09-CR-3374-1

Before HIGGINBOTHAM, GARZA, and ELROD, Circuit Judges.

PER CURIAM:*

Jose Guadalupe Escareno Hernandez (Escareno Hernandez) pleaded guilty to attempted unlawful reentry by an alien (count one) and to using an altered permanent resident alien card to reenter the United States fraudulently (count two). *See* 8 U.S.C. § 1326; 18 U.S.C. § 1546. The district court sentenced him to a 30-month prison term on each count, to be served concurrently. The sentences were within the guidelines range of 30 to 37 months of imprisonment.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 10-50275

Escareno Hernandez appeals, contending that the lack of a fast-track disposition program in the Western District of Texas results in an unwarranted disparity between his sentence and the sentences of those convicted in districts having such programs and that the disparity makes his sentences unreasonable. As he concedes, his argument is foreclosed by our decision in *United States v. Gomez-Herrera*, 523 F.3d 554, 562-63 (5th Cir. 2008), and he raises it only to preserve it for further review. Accordingly, the judgment of the district court is AFFIRMED.