

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

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No. 15-10467  
Conference Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

February 17, 2016

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

FRANCISCO VALENCIA-VILLA,

Defendant-Appellant

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:13-CR-407-1

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Before DAVIS, SMITH, and PRADO, Circuit Judges.

PER CURIAM:\*

Appealing the judgment in a criminal case, Francisco Valencia-Villa raises an argument that 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 judicially found facts does not violate the Sixth Amendment. Accordingly, the motion for summary affirmance is GRANTED,

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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the alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.