

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

m 98-20406

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

VERSUS

ALFONSO CASTANO,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas

July 6, 2000

ON PETITION FOR REHEARING

Before POLITZ, SMITH, and DENNIS,
Circuit Judges.

PER CURIAM:

In its petition for panel rehearing, the government now confesses error and takes the position that Castano is entitled to relief. Accordingly, on the basis of the government's request, the petition for rehearing is GRANTED,

and the panel opinion, 211 F.3d 871 (5th Cir. 2000), is WITHDRAWN. The order denying the motion to vacate sentence is REVERSED, and the judgment of conviction and sentence is VACATED and REMANDED for re-entry of judgment and the opportunity to appeal that new judgment. *See Mack v. Smith*, 659 F.2d 23, 26 (5th Cir. Unit A Oct. 1981) (per curiam).

We express no view on the legal propriety of the government's concession or on what action this court should take once any appeal

from the new judgment is filed.