

May 31, 2005

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 04-50850

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

VICTOR HUGO MARTINEZ

Defendant - Appellant

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Appeal from the United States District Court for the  
Western District of Texas, Waco  
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Before KING, Chief Judge, and DeMOSS, and CLEMENT, Circuit  
Judges.

PER CURIAM:<sup>1</sup>

IT IS ORDERED that Appellee's unopposed motion to vacate the  
sentence is GRANTED.

IT IS FURTHER ORDERED that Appellee's unopposed motion to  
remand the case to the Western District of Texas, Waco Division  
for resentencing is GRANTED.

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<sup>1</sup>Pursuant to 5<sup>th</sup> Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5<sup>th</sup> Cir. R. 47.5.4.

IT IS FURTHER ORDERED that Appellee's alternative request for an extension of time to file the Appellee's supplemental brief 14 days from the denial of Appellee's motion to vacate and remand is DENIED AS MOOT.