

**FILED**

July 13, 2007

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III  
Clerk

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No. 05-51449  
Conference Calendar

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UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

OSCAR FRANCO-MUNOZ, also known as Cesar Franco

Defendant-Appellant

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Appeal from the United States United States District Court  
for the Western District of Texas  
No. 3:05-CR-652-ALL

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ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before JONES, Chief Judge, SMITH and STEWART, Circuit Judges.

PER CURIAM:\*

In this case, sub nom. Sandoval-Vallejo v. United States, 127 S. Ct. 2031 (2007), the Court vacated and remanded for further consideration in light of Lopez v. Gonzales, 127 S. Ct. 625 (2006). The defendant has served his term of

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

imprisonment and has been removed from the United States but remains subject to a term of supervised release.

We are governed by United States v. Rosenbaum-Alanis, 483 F.3d 381, 383 (5th Cir. 2007), but, because defendant remains subject to supervised release, he may seek modification of the term of supervised release under 18 U.S.C. § 3583(e), which does not require his presence. See United States v. Ayala-Flores, No. 05-40741, 2007 WL 1295998 (5th Cir. May 3, 2007) (per curiam) (unpublished); United States v. Arguenta-Hernandez, No. 05-41254, 2007 WL 1296006 (5th Cir. May 3, 2007) (per curiam) (unpublished).

We therefore DISMISS this appeal as moot without prejudice to defendant's right to seek a modification of his term of supervised release.