

March 30, 2007

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 06-10837
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RAMON CHAVEZ-RAMIREZ, also known as Ramon Chavez,
also known as Raymon Chavez,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:06-CR-19

Before JOLLY, DENNIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Ramon Chavez-Ramirez (Chavez-Ramirez) appeals his conviction and sentence for illegal reentry. He argues that the district court misapplied the Sentencing Guidelines by characterizing his state felony conviction for possession of a controlled substance as an "aggravated felony" under U.S.S.G. § 2L1.2(b)(1)(C).

Given the Supreme Court's recent decision in Lopez v. Gonzalez, 127 S. Ct. 625 (2006), Chavez-Ramirez's argument, as conceded by the Government, has merit. See United States v.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Estrada-Mendoza, 475 F.3d 258, No. 05-41627, 2007 WL 6583, *2 (5th Cir. Jan. 3, 2007). Accordingly, Chavez-Ramirez's sentence is vacated, and the case is remanded for resentencing in light of Lopez.

Because the Government has conceded that he is entitled to resentencing based on the district court's erroneous § 2L1.2(b)(1)(C) enhancement, Chavez-Ramirez requests that he be allowed to withdraw the remaining issues raised on appeal. His motion to withdraw and remand should be granted.

AFFIRMED IN PART; VACATED IN PART AND REMANDED; MOTION GRANTED.