UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 00-20926

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

WESLEY JOSEPH SLANINA, also known as Wesley J. Slanina,

Defendant-Appellant.

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

> ON REMAND FROM SUPREME COURT OF THE UNITED STATES November 27, 2002

Before JOLLY, SMITH and BENAVIDES, Circuit Judges. BY THE COURT:

IT IS ORDERED that appellant's motion for summary remand is GRANTED. We view the Supreme Court order of remand to this court as vacating the judgment of this court, not the judgment and conviction of the district court. We remand to the district court, as suggested by both parties, so that the district court may decide in the first instance the impact of Ashcroft v. Free Speech Coalition, 535 U.S. 234, 122 S.Ct. 1389 (2002), on the judgment of conviction and sentence.