

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 16-50151

United States Court of Appeals
Fifth Circuit

FILED

August 10, 2018

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

versus

FLORENCIO ROSALES-MIRELES,
Also Known as Roberto Lozano-Alcauter,

Defendant–Appellant.

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

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before SMITH, CLEMENT, and SOUTHWICK, Circuit Judges.

PER CURIAM:

Florencio Rosales-Mireles pleaded guilty of illegal reentry into the United States and was convicted and sentenced. The sentence was based in part on unobjected-to error. On appeal, this court declined to exercise

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discretion to afford plain-error relief and affirmed. *United States v. Rosales-Mireles*, 850 F.3d 246 (5th Cir. 2017). The Supreme Court reversed and remanded. *Rosales-Mireles v. United States*, 138 S. Ct. 1897 (2018).

On remand, the United States and the Federal Public Defender filed a joint motion to vacate the sentence and remand for resentencing. Although we are not bound even by a joint motion, we agree that the request is appropriate. The motion is GRANTED. The judgment of sentence is VACATED and REMANDED for resentencing.