

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

\_\_\_\_\_  
No. 04-11398  
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United States Court of Appeals  
Fifth Circuit

**FILED**

May 10, 2005

UNITED STATES OF AMERICA

Charles R. Fulbruge III  
Clerk

Plaintiff - Appellee

v.

JOHNNY PEREZ, JR also known as, Shank

Defendant - Appellant

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Appeal from the United States District Court  
for the Northern District of Texas  
(03-CR-20)  
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Before JONES, BARKSDALE, and PRADO, Circuit Judges.

PER CURIAM:

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

IT IS FURTHER ORDERED that the Appellee's unopposed motion to remand the case to the United States District Court for the Northern District of Texas, Wichita Falls Division for resentencing is granted.

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 Cir. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5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

