

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

\_\_\_\_\_  
No. 04-50998  
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United States Court of Appeals  
Fifth Circuit

**FILED**

April 8, 2005

UNITED STATES OF AMERICA

Charles R. Fulbruge III  
Clerk

Plaintiff - Appellee

v.

HOMERO BAUTISTA-FAUSTINO

Defendant - Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
(04-CR-149)  
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Before DAVIS, SMITH, and DENNIS, 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 Western District of Texas, Austin 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 Cir. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5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.

IT IS FURTHER ORDERED that the Appellee's unopposed alternative motion to extend time to file the Appellee's brief until fourteen (14) days from the Court's denial of the Appellee's motion to vacate and motion to remand is denied as unnecessary.