

June 16, 2005

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 04-51387

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

JESUS RIVAS-ZUBIATE

Defendant - Appellant

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Appeal from the United States District Court for the  
Western District of Texas, El Paso  
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Before JONES, BARKSDALE and PRADO, Circuit Judges.

PER CURIAM:<sup>1</sup>

IT IS ORDERED that Appellee's unopposed motion to vacate the sentence is GRANTED;

IT IS FURTHER ORDERED that Appellee's unopposed motion to remand case to the US District Court for the Western District of Texas, El Paso Division for resentencing is GRANTED;

IT IS FURTHER ORDERED that Appellee's alternative motion to extend time to file Appellee's brief until 14 days from the

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<sup>1</sup>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 Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under limited circumstances set forth in 5<sup>th</sup> Cir. R. 47.5.4.

Court's denial of Appellee's motion to vacate and remand is  
DENIED AS UNNECESSARY.