

FILED

December 27, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-50916

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

JOSE MANUEL HERRERA-DUAY also known as, Jose Manuel Herrero
also known as, Jose Manuel Herrera also known as, Jose
Herrero

Defendant - Appellant

Appeal from the United States District Court for the
Western District of Texas, El Paso
(05-CR-2610)

Before JOLLY, DENNIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

IT IS ORDERED that Appellee's unopposed motion to vacate
sentence of district court is GRANTED.

IT IS FURTHER ORDERED that Appellee's unopposed motion to
remand to district court for resentencing is GRANTED.

*Pursuant to 5TH 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this opinion should not be published and is not precedent except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 5TH CIR. R. 47.5.4.

IT IS FURTHER ORDERED that Appellee's unopposed alternative motion for extension time to file Appellee's brief thirty (30) days from Court's denial of Appellee's motion to vacate and remand is DENIED as moot.