

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

United States Court of Appeals
Fifth Circuit

FILED

September 1, 2010

Lyle W. Cayce
Clerk

No. 09-51099

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MARCO ANTONIO MARTINEZ-PUENTE,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:09-CR-1842-1

Before GARWOOD, DAVIS, and OWEN, Circuit Judges.

PER CURIAM:*

Marco Antonio Martinez-Puente pled guilty to illegal reentry after deportation. He was sentenced to 12 months of imprisonment, to be followed by one year of non-reporting supervised release. On appeal, Martinez-Puente argues only that his sentence is unreasonable because it is greater than necessary to accomplish the goals of sentencing under 18 U.S.C. § 3553(a).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

We do not reach the merits of the issue that he presents. Because Martinez-Puente has prior to this date been released from federal custody and removed from the United States, he is subject only to an undischarged term of supervised release. We cannot grant what he requests because resentencing would require Martinez-Puente to be present at a hearing to consider a new sentence; his deportation creates a legal bar to such an appearance. *United States v. Rosenbaum-Alanis*, 483 F.3d 381, 383 (5th Cir. 2007). This appeal therefore has become moot.

The appeal is DISMISSED.