

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

\_\_\_\_\_  
No. 13-10541  
\_\_\_\_\_

United States Court of Appeals  
Fifth Circuit

**FILED**  
August 19, 2015

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

FRANCISCO DE LA CRUZ, JR., also known as Frank Delacruz,

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 5:12-CR-111-1  
\_\_\_\_\_

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before REAVLEY, ELROD, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

The defendant has been sentenced to the mandatory minimum sentence pursuant to the Armed Career Criminal Act because of three prior convictions for violent felonies. Because the Supreme Court has held that the residual clause of the statute is unconstitutional in *Johnson v. United States* #13-7120, 576 U.S. \_\_\_\_ (2015), defendant's sentence must be vacated and a new sentence imposed.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 13-10541

SENTENCE VACATED; CASE REMANDED.