

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

No. 16-41041
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

September 14, 2018

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

JORGE AGUSTIN-GARCIA,

Defendant - Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:16-CR-283-1

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before HIGGINBOTHAM, JONES, and SMITH, Circuit Judges.

PER CURIAM:*

This case comes to us on remand from the Supreme Court of the United States for reconsideration in light of its recent decision in *Rosales-Mireles v. United States*, 138 S. Ct. 1897 (2018). We need not repeat the facts of this case,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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which are laid out in our previous opinion. *See United States v. Agustin-Garcia*, 699 F. App'x 391 (5th Cir. 2017). The question before us is whether this court should exercise its discretion to correct the district court's error in computing Agustin-Garcia's Guidelines range. *Rosales-Mireles* dictates that we should exercise our discretion in this case to remand for resentencing. *See* 138 S. Ct. at 1908-11.

Accordingly, we **VACATE** Agustin-Garcia's sentence and **REMAND** for reconsideration in light of the corrected guidelines range. The mandate shall issue forthwith.