

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

No. 17-10090
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 17, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

BENJAMIN EMIGDIO JIMENEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:16-CR-222-1

Before DAVIS, CLEMENT, and COSTA, Circuit Judges.

PER CURIAM:*

Benjamin Emigdio Jimenez pleaded guilty to possession of a firearm by a felon and was sentenced to 44 months of imprisonment and three years of supervised release. On appeal, he argues that the district court misapplied U.S.S.G. § 5G1.3 when it ordered his federal sentence to run consecutively to a not-yet-imposed sentence in a then-pending state prosecution for possession of marijuana. Counsel for Jimenez has since provided documentation

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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establishing that the pending marijuana charge has been dismissed on the State's motion. Because Jimenez's challenge has been rendered moot, the appeal is DISMISSED. *See Church of Scientology of Cal. v. United States*, 506 U.S. 9, 12 (1992).