

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-2884  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARILOU DESACOLA BUYOC,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. CA-H-92-3182  
- - - - -

June 22, 1993

Before POLITZ, Chief Judge, WIENER, and DeMOSS, Circuit Judges.

PER CURIAM:\*

Marilou Desacola Buyoc pleaded guilty to two counts of a four-count indictment in exchange for the Government's promise to recommend a sentence of not more than five years and its promise not to prosecute her on "failure to appear" charges. She was sentenced to concurrent terms of eight years imprisonment on each count and a \$100 special assessment. She did not appeal her conviction or sentence.

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Buyoc filed a motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255 alleging that her sentence violated the Equal Protection Clause because as a deportable alien she had to serve her sentence under more restrictive terms than a U.S. citizen, and that the Government was supposed to recommend a sentence of no more than five years, but she received an eight-year sentence. The district court summarily denied relief.

The Government complied with the plea agreement and recommended a sentence of five years. Buyoc's claim is frivolous and her appeal is DISMISSED. See Fifth Cir. Loc. R. 42.2. The motion to file an out-of-time reply brief is DENIED as moot.