IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 13-40124
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DOMINGIO ISAIAS TAX-GARCIA, also known as Domingo Isaias Tax-Garcia,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:12CR-765-1

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before WIENER, OWEN, and HAYNES, Circuit Judges.

PER CURIAM:[*]

We previously affirmed Tax-Garcia's sentence because his challenge to the denial of an additional one-level reduction under U.S.S.G. § 3E1.1(b) was foreclosed by *United States v. Newson*, 515 F.3d 374, 377-78 (5th Cir. 2008). *United States v. Tax-Garcia*, 544 F. App'x 564 (5th Cir. 2013), The Supreme Court vacated and remanded "for further consideration in light of the position

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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asserted by the Solicitor General." *Tax-Garcia v. United States*, No. 13-8627, 2014 WL 516625 (2014).

Amendment 775 to the United States Sentencing Guidelines, which became effective November 1, 2013, provides that the government should not withhold the additional one-level reduction under § 3E1.1(b) based on interests not identified in the guideline, such as whether the defendant agrees to waive the right to appeal. U.S.S.G. Manual, Supp. to App. C, Amendment 775, at 43-46 (2013). In *United States v. Villegas Palacios*, No. 13-40153, 2014 WL 2119096, at *1 (5th Cir. May 21, 2014), we applied Amendment 775 to a case on direct appeal in which the error was preserved and the government conceded error. In light of the Supreme Court's order and *Villegas Palacios*, the judgment is VACATED and REMANDED for resentencing.