

United States Court of Appeals for the Fifth Circuit

No. 24-40061
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 7, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

FAUSTINO SANJUAN, JR.,

Defendant—Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC Nos. 4:19-CR-172-10,
4:21-CR-166-4

Before WIENER, HO, and RAMIREZ, *Circuit Judges*.

PER CURIAM:*

Faustino Sanjuan, Jr., appeals the sentences imposed following his guilty plea convictions of conspiracy to possess with intent to distribute cocaine and conspiracy with intent to manufacture and distribute 500 grams or more of methamphetamine or 50 grams or more of methamphetamine (actual). The parties have filed a joint motion to vacate the sentences and to

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 24-40061

remand for resentencing based on the Government's breach of the plea agreement or, alternatively, a motion for an extension of time to file an Appellee's brief. We have reviewed the record, Hayden's brief, and the motion and conclude that vacatur and remand for resentencing are warranted. *See United States v. Malmquist*, 92 F.4th 555, 562-66 (5th Cir. 2024). In such cases, resentencing should be before a different district court judge. *United States v. Gonzalez*, 309 F.3d 882, 886 (5th Cir. 2002).

The joint motion to vacate and to remand for resentencing is GRANTED. The motion for an extension of time to file an Appellee's brief is DENIED AS MOOT. This matter is REMANDED FOR RESENTENCING before a different district court judge.