

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-10278
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE GONZALO CASTILLO-RODRIGUEZ, also known as Oscar
Tovar-Ramirez,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 6:00-CR-47-1-C

November 26, 2001

Before DAVIS, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Jose Castillo-Rodriguez has filed a motion requesting that his case be remanded to the district court and that he be resentenced in accordance with United States v. Chapa-Garza, 243 F.3d 921, 927 (5th Cir. 2001), which this court decided after Castillo-Rodriguez was sentenced. Castillo-Rodriguez' offense level was based upon a determination that his prior Texas felony driving while intoxicated conviction was an aggravated felony under U.S.S.G. § 2L1.2(b)(1)(A). His motion is GRANTED; his sentence is VACATED; and his case is REMANDED FOR RESENTENCING in accordance with our decision in Chapa-Garza, 243 F.3d at 927.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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