

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-40796
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

MORGAN ALLEN HARRIS,

Defendant-Appellant.

Appeal from the United States District Court for the
Southern District of Texas, Houston
C-01-CR-27-1

December 2, 2002

Before JOLLY, JONES and BENAVIDES, Circuit Judges.*

PER CURIAM:

IT IS ORDERED that Appellant's motion to recall the mandate pursuant to Rule 41.2 of the Fifth Circuit Rules, reopen this appeal, vacate appellant's sentence and to remand for resentencing in light of the en banc opinion in *USA v. Charles*, Case No. 01-10113, is GRANTED.

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

MANDATE RECALLED, SENTENCE VACATED AND REMANDED TO THE DISTRICT
COURT IN LIGHT OF *USA v. CHARLES*.