

FILED

April 26, 2005

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 04-50956

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

HORACIO GARCIA GUZMAN

Defendant - Appellant

Appeal from the United States District Court for the
Western District of Texas, El Paso
3:04-CR-398-ALL-FM

Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

IT IS ORDERED that appellee's unopposed motion to vacate the sentence is GRANTED.

IT IS FURTHER ORDERED that appellee's unopposed motion to remand case to the United States District Court for the Western District of Texas, El Paso Division, for resentencing is GRANTED.

IT IS FURTHER ORDERED that appellee's unopposed motion in the alternative to extend time to file appellee's brief until 14 days from the Court's denial of appellee's motion to vacate and remand is DENIED as moot.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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