

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 09-40529
Conference Calendar

United States Court of Appeals
Fifth Circuit

FILED
August 4, 2015

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

BENNIE D. EMEARY, JR.,

Defendant – Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:05-CR-15

Before DENNIS and ELROD, Circuit Judges:*

PER CURIAM: **

IT IS ORDERED that the appellant's motion for summary remand, which is unopposed by the appellee, is GRANTED.

Therefore, the appellant's conviction is AFFIRMED, his sentence is VACATED, and this case is REMANDED to the district court for resentencing.

* This order is entered by a quorum pursuant to 28 U.S.C. § 46(d).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 09-40529

In light of the circumstances of this case, the district court should proceed expeditiously.