

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-10017  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSÉ LOUIS PECINA,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:96-CV-263-E  
- - - - -

September 24, 1997

Before King, Higginbotham, and Davis, Circuit Judges.

PER CURIAM:\*

José Louis Pecina appeals the district court's order scheduling resentencing on the remaining drug-trafficking counts of conviction after vacating his firearms conviction pursuant to 18 U.S.C. § 924(c). He contends that the district court was without authority to order resentencing and that resentencing would violate double jeopardy and due process. Contrary to Pecina's assertions, the district court had the authority to order resentencing. United States v. Hernandez, 116 F.3d 725,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

727-28 (5th Cir. 1997). Further, resentencing will not implicate double jeopardy or due process concerns. United States v. Rodriguez, 114 F.3d 46, 47-48 (5th Cir. 1997); see also, United States v. Benbrook, 119 F.3d 338 (5th Cir. 1997). Accordingly, the district court's decision to resentence Pecina on the remaining counts of conviction is affirmed, and the case is remanded for resentencing.

AFFIRMED.