

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-21084
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RAUL ELIZONDO ALVAREZ,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Louisiana
USDC No. H-92-CR-298-2
- - - - -

August 25, 1999

Before KING, Chief Judge, and DAVIS and SMITH, Circuit Judges.

PER CURIAM:*

Raul Elizondo Alvarez appeals the district court's resentencing on the remaining counts of conviction after vacating his 18 U.S.C. § 924(c) firearm conviction pursuant to Bailey v. United States, 116 S. Ct. 501 (1995). He contends that the district court was without authority to resentence him. Contrary to Alvarez's assertion, the district court had the authority to resentence. United States v. Benbrook, 119 F.3d 338, 339-41 (5th

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Cir. 1997); United States v. Hernandez, 116 F.3d 725, 727-28 (5th

Cir. 1997); United States v. Rodriguez, 114 F.3d 46, 47-48 (5th

Cir. 1997).

AFFIRMED.