

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 05-14475

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT SEPT 25, 2008 THOMAS K. KAHN CLERK
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D. C. Docket No. 03-00493 CR-17-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROBERTO MORENO-GONZALEZ,
a.k.a. Beto,

Defendant-Appellant.

No. 05-17251

D. C. Docket No. 03-00493 CR-3-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LEONARDO NUNEZ-VIRRAIZABAL,

Defendant-Appellant.

Appeals from the United States District Court
for the Northern District of Georgia

(September 25, 2008)

**ON REMAND FROM THE SUPREME COURT
OF THE UNITED STATES**

Before DUBINA and COX, Circuit Judges, and SCHLESINGER,* District Judge.

PER CURIAM:

This case returns to us on remand from the Supreme Court of the United States. The Supreme Court vacated this court's judgment in the Roberto Moreno-Gonzalez and Leonardo Nunez-Virraizabal cases and remanded for further consideration in light of *Cuellar v. United States*, 128 S. Ct. 1994 (2008). *United States v. Garcia-Jaimes*, 484 F.3d 1311 (11th Cir. 2007), vacated sub nom. *Moreno-Gonzalez v. United States*, 128 S. Ct. 2901 (2008) and *Nunez-Virraizabal v. United States*, 128 S. Ct. 2901 (2008).

The parties have filed supplemental briefs following remand, and agree that only the convictions on Count 26 are at issue. Accordingly, we now vacate Roberto's and Leonardo's convictions on Count 26, and vacate Roberto's and Leonardo's

*Honorable Harvey E. Schlesinger, United States District Judge for the Middle District of Florida, sitting by designation.

sentences, and remand their cases to the United States District Court for the Northern District of Georgia for further consideration and further proceedings consistent with the opinion of the Supreme Court in *Cuellar*.

We reinstate the vacation of Roberto's gun conviction and affirm all convictions other than Roberto's gun conviction and Roberto's and Leonardo's Count 26 convictions for reasons stated in our prior opinion.

AFFIRMED IN PART; VACATED IN PART; VACATED AND REMANDED IN PART.