

DEC 13 2007

United States v. Navarro *No. 06-50618*

FERNANDEZ, Circuit Judge, dissenting:

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

I respectfully dissent because, as I see it, Navarro “committed the instant offense while under [a] criminal justice sentence” of probation,¹ regardless of the fact that the state court later tinkered with that sentence. That precludes safety valve relief.

¹ USSG §4A1.1(d); see also USSG §4A1.2(c)(1).