

FILED

AUG 25 2004

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ISADORE DINO GUTIERREZ,

Defendant - Appellant.

No. 04-50005

D.C. No. CR-00-00366-JNK

ORDER

Appeal from the United States District Court
for the Southern District of California
Judith N. Keep, District Judge, Presiding

Argued and Submitted June 8, 2004
Pasadena, California

Before: T.G. NELSON, TASHIMA, and FISHER, Circuit Judges.

Defendant-Appellant's unopposed motion for extension of time to file a response to Government's motion is GRANTED. The court has considered Defendant-Appellant's response as well as the Government's reply. The Government's motion to dismiss the appeal as moot is GRANTED, and this appeal is REMANDED TO THE DISTRICT COURT for consideration of whether vacatur is appropriate.