

JUL 21 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ATHELUALDO LOPEZ ORTEGA,

Defendant - Appellant.

No. 07-10422

D.C. No. CR-00-00398-VRW

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Vaughn R. Walker, District Judge, Presiding

Submitted July 14, 2008\*\*

Before: SCHROEDER, LEAVY and IKUTA, Circuit Judges.

The parties' joint motion for remand is granted, and defendant's conviction and sentence are vacated.

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

This appeal is remanded to the district court for the purpose of allowing the government to move to dismiss the indictment with prejudice in the district court.

**VACATED and REMANDED.**