

JUL 24 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff - Appellee,</p> <p>v.</p> <p>FRANCISCO ESPARZA-GUTIERREZ,</p> <p>Defendant - Appellant.</p>

No. 08-50157

D.C. No. 3:08-cr-00416-LAB-1

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Submitted July 14, 2008**

Before: SCHROEDER, LEAVY and IKUTA, Circuit Judges.

Appellee’s unopposed motion for summary reversal and remand is granted.

See United States v. Forbes, 172 F.3d 675, 675 (9th Cir. 1999).

* 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)*.

Appellant's request for immediate issuance of the mandate is granted. The mandate shall issue forthwith.

REVERSED and REMANDED.