

**OCT 10 2007**

**CATHY A. CATTERSON, 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**NOT FOR PUBLICATION**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.

JOSE OMAR VILLALTA-CASTRO,

Defendant - Appellant.

No. 07-50308

D.C. No. CR-04-00715-DSF-01

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Dale S. Fischer, District Judge, Presiding

Submitted October 1, 2007\*\*

Before: B. FLETCHER, BERZON and IKUTA, Circuit Judges.

The parties' joint motion for summary reversal and remand is granted.

Defendant's sentence is vacated. *See* 18 U.S.C. §§ 3583(b)(3), 3583(e)(3),

---

\* 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).

07-50308

3583(h). This appeal is remanded to the district court for the purpose of re-sentencing defendant.

**VACATED and REMANDED.**