

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-4338

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MICHAEL DENNIS OLDS,

Defendant - Appellant.

On Remand from the Supreme Court of the United States.
(S. Ct. No. 10-10612)

Submitted: January 26, 2012

Decided: February 9, 2012

Before NIEMEYER, GREGORY, and DAVIS, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

Thomas P. McNamara, Federal Public Defender, Stephen C. Gordon, Assistant Federal Public Defender, Raleigh, North Carolina, for Appellant. George E. B. Holding, United States Attorney, Jennifer P. May-Parker, Kristine L. Fritz, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

After finding that Michael Dennis Olds had violated the terms of his supervised release, the district court revoked release and sentenced him to thirty months in prison--significantly above Olds' recommended Guidelines range of five-eleven months. In imposing sentence, the district court stated that the variant sentence was warranted by Olds' need for intensive drug therapy and the need to protect society from his ongoing drug use.

Olds appealed, arguing that his sentence was plainly unreasonable. We affirmed. However, the Supreme Court subsequently vacated the judgment and remanded for reconsideration in light of Tapia v. United States, 131 S. Ct. 2382 (2011). United States v. Olds, 420 Fed. App'x 260 (4th Cir.), vacated, 132 S. Ct. 452 (2011). In Tapia, the Supreme Court held that sentencing courts are precluded "from imposing or lengthening a prison term to promote an offender's rehabilitation." Tapia, 131 S. Ct. at 2391.

The district court did not have the benefit of Tapia when it determined Olds' sentence. To give the district court an opportunity to reconsider the sentence in light of Tapia, we conclude that resentencing is necessary. Accordingly, the sentence is vacated and the case remanded for resentencing. We dispense with oral argument because the facts and legal

contentions are adequately presented in the materials before the court and argument would not adequately aid the decisional process.

VACATED AND REMANDED