

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

February 6, 2012

Lyle W. Cayce  
Clerk

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No. 10-50382  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

WALTER LEONARDO,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 2:09-CR-1079-1

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ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before REAVLEY, DENNIS, and CLEMENT, Circuit Judges.

PER CURIAM:\*

The Supreme Court vacated the judgment and remanded the case for further consideration in light of *Tapia v. United States*, 564 U.S. \_\_\_, 131 S. Ct. 2382 (2011). The statement of the district judge at sentencing does support the contention that a longer sentence was given for medical care and

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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the law is clear now that this was error. We therefore vacate the sentence and remand for resentencing.

Sentence VACATED; REMANDED for resentencing.