

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

No. 12-40049
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 6, 2014

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

BENANCIO MACEDO-SILVA,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:11-CR-1417-1

Before REAVLEY, DENNIS, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Benancio Macedo-Silva pleaded guilty to being unlawfully present in the United States following removal. The district court sentenced Macedo-Silva to 37 months in prison and did not impose a supervised release term.

In his only issue on appeal, Macedo-Silva contends that the district court erred in concluding that his 2001 Mississippi conviction for conspiracy to commit rape warranted a 16-level enhancement under U.S.S.G.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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§ 2L1.2(b)(1)(A)(ii). Because Macedo-Silva has been released from prison after completing his prison term and he has no additional sentence to serve, his appeal is moot. *See Spencer v. Kemna*, 523 U.S. 1, 7-8 (1998).

DISMISSED.