

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

November 5, 2008

Charles R. Fulbruge III
Clerk

No. 07-11257
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JESSE GUZMAN

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:07-CR-35-ALL

Before SMITH, STEWART, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Jesse Guzman appeals a restitution order imposed following his conviction of bank robbery and related crimes. He contends that the amount of restitution should be offset by the amount of stolen money recovered from the robbery. Although the presentence report recommended the offset, neither the written judgment nor the court at sentencing ordered the offset.

The Government contends that the appeal should be dismissed as moot because the offset has taken place. In support, the Government has

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

supplemented the record with documentary evidence showing that the recovered money was returned to the bank and that the bank asked the clerk of the district court to credit the recovered money to the restitution account. In addition, the Government presented the district court's "Case Inquiry Report" showing that \$7251 has been collected and credited against the ordered restitution amount of \$17,228.

The record establishes that the ordered restitution amount of \$17,228 has been offset by \$7251. Guzman has therefore received the relief he seeks on appeal. Accordingly, the Government's motion to dismiss the appeal as moot is GRANTED, and the appeal is DISMISSED as moot.