

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

No. 16-40470

United States Court of Appeals
Fifth Circuit

FILED

December 13, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

JOSE SALVADOR ORTIZ-CHAVIRA,

Defendant - Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:15-CR-806

ON PETITION FOR REHEARING

Before JOLLY and ELROD, Circuit Judges, and STARRETT, District Judge.*
PER CURIAM:**

The court grants rehearing, withdraws its previous opinion in this matter, *United States v. Ortiz-Chavira*, 873 F.3d 473 (5th Cir. 2017), and substitutes the following.

* District Judge of the Southern District of Mississippi, sitting by designation.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 16-40470

Jose Salvador Ortiz-Chavira (“Ortiz-Chavira”) challenges his term of imprisonment, arguing the district court erroneously applied a 12–level sentencing enhancement based on a previous burglary conviction under Texas law. Before this court issued its opinion, Ortiz-Chavira completed his term of imprisonment on September 1, 2017, and was deported that same day. In view of the foregoing, both parties agree that this appeal is moot. *See United States v. Mejia-Hernandez*, 668 F. App’x 555, 556 (5th Cir. 2016); *United States v. Heredia-Holguin*, 823 F.3d 337, 342 n.3 (5th Cir. 2016) (en banc) (distinguishing “cases largely involv[ing] situations in which a defendant had completed his term of imprisonment and been deported, yet was still trying to challenge the *term of imprisonment* on the ground that the term of supervised release had not yet expired”).

Accordingly, this appeal is

DISMISSED.