

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

No. 17-40132
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 3, 2018

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

versus

RAMON BAZAN, III,

Defendant–Appellant.

Appeal from the United States District Court
for the Southern District of Texas
No. 2:03-CR-230-1

Before HIGGINBOTHAM, JONES, and SMITH, Circuit Judges.

PER CURIAM:*

Ramon Bazan, III, appeals the 120-month sentence imposed on resentencing for being a felon in possession of a firearm. The district court granted

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Bazan’s 28 U.S.C. § 2255 motion and vacated his original 240-month sentence under the Armed Career Criminal Act in light of *Johnson v. United States*, 135 S. Ct. 2551, 2555–57, 2563 (2015).

Bazan contends that the district court violated the Ex Post Facto Clause in applying the version of the Sentencing Guidelines in effect at resentencing instead of the version in effect when the offense was committed. We do not decide whether the district court erred, because any error was harmless. *See United States v. Delgado-Martinez*, 564 F.3d 750, 753 (5th Cir. 2009); *United States v. Rodarte-Vasquez*, 488 F.3d 316, 322 (5th Cir. 2007). The district court’s statements at resentencing indicate “that the district court had a particular sentence in mind and would have imposed it, notwithstanding the error.” *Delgado-Martinez*, 564 F.3d at 753 (internal quotation marks and citation omitted).

The judgment is AFFIRMED.