

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee/Cross-*  
*Appellant,*

v.

GINO GONZAGA RODRIQUEZ,  
*Defendant-Appellant/Cross-*  
*Appellee.*

Nos. 04-30397  
04-30494  
D.C. No.  
CR-03-00142-  
RHW  
Eastern  
District of  
Washington,  
Spokane  
ORDER

On Remand from the United States Supreme Court

Filed July 7, 2008

Before: Johnnie B. Rawlinson and Richard R. Clifton,  
Circuit Judges, and Consuelo Marshall,\* District Judge.

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**ORDER**

This case is hereby resubmitted.

Pursuant to the judgment of the United States Supreme Court issued on May 19, 2008 in *United States v. Rodriguez*, \_\_\_ U.S. \_\_\_, 128 S.Ct. 1783, we vacate our opinion at 464 F.3d 1072 (9th Cir. 2006), vacate the district court's decision, and remand to the district court for further proceedings consistent with the opinion of the Supreme Court.

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\*The Honorable Consuelo Marshall, Senior United States District Judge for the Central District of California, sitting by designation.

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