

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

No. 18-50668

United States Court of Appeals
Fifth Circuit

FILED

March 18, 2019

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

DIEGO SANTOS-FERRUFINO,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:18-CR-64-1

Before OWEN, WILLETT, and OLDHAM, Circuit Judges.

PER CURIAM*:

We DENY the government's unopposed motion to dismiss this appeal as moot. The district court lacked jurisdiction to modify its sentence while this appeal was pending. *See United States v. Lucero*, --- F. App'x ----, No.17-50709, 2018 WL 6200326, at *1 (5th Cir. Nov. 27, 2018).

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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We GRANT the government's alternative motion to extend time to file its brief for 30 days from the entry of this order. If the government (the movant below) wishes to take advantage of the indicative ruling scheme, then it should comply with that scheme's procedures. *See* FED. R. CRIM. P. 37(b); FED. R. APP. P. 12.1(a).