

**FILED**  
**United States Court of Appeals**  
**Tenth Circuit**

**UNITED STATES COURT OF APPEALS**  
**FOR THE TENTH CIRCUIT**

**September 18, 2024**

**Christopher M. Wolpert**  
**Clerk of Court**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GERALD ANTHONY EUSEBIO ALBO,  
JR.,

Defendant - Appellant.

No. 23-1299  
(D.C. No. 1:22-CR-00302-RM-1)  
(D. Colo.)

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**ORDER AND JUDGMENT\***

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Before **MATHESON**, **BACHARACH**, and **PHILLIPS**, Circuit Judges.

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This matter is before the court on the parties' Joint Motion for Remand (the "Motion"). Upon consideration, the Motion is granted, as provided below.

The abatement of proceedings in this appeal is lifted. This matter is remanded to the district court with instructions to vacate Appellant Gerald Anthony Eusebio Albo, Jr.'s sentence and conduct any and all proceedings necessary to resentence Appellant

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\* After examining the parties' motion and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Federal Rule of Appellate Procedure 32.1 and Tenth Circuit Rule 32.1.

consistent with the grounds presented in the Motion, which is incorporated into this Order and Judgment by reference.

This appeal is dismissed. The mandate shall issue forthwith.

Entered for the Court

A handwritten signature in black ink, appearing to read 'C. Wolpert', with a long horizontal flourish extending to the right.

CHRISTOPHER M. WOLPERT, Clerk