

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 99-3064

September Term, 2000

UNITED STATES OF AMERICA,
APPELLEE

(82cr00339-01)

Filed On: September 25, 2000

[545624]

v.

TROY MITCHELL TODD, JR.,
APPELLANT

Appeal from the United States District Court
for the District of Columbia

Before: HENDERSON, RANDOLPH, and GARLAND, *Circuit Judges*.

J U D G M E N T

This cause came to be heard on the record on appeal from the United States District Court for the District of Columbia, and was briefed and argued by the parties. The issues have been accorded full consideration by the Court and occasion no need for a published opinion. *See* D.C. CIR. R. 36(b). It is

ORDERED and ADJUDGED by the Court that the May 6, 1999, order of the district court vacating the defendant's original sentence and reentering that sentence is hereby vacated. The defendant's original sentence imposed on September 26, 1983, is hereby reinstated. It appears that the district court believed that the alleged failure of the defendant to agree that an appeal should not be filed on his behalf, or the alleged failure of his attorney to advise him of a right to appeal, entitles the defendant to relief. The intervening Supreme Court decision in *Roe v. Flores-Ortega*, 120 S. Ct. 1029 (2000), bears on this question. It is therefore,

FURTHER ORDERED AND ADJUDGED that the district court shall reconsider its May 6, 1999, decision to resentence the defendant in light of *Roe v. Flores-Ortega, supra*, and any further proceedings the district court deems appropriate.

FURTHER ORDERED, by the Court, *sua sponte*, that the Clerk shall withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing. *See* D.C. CIR. R. 41(a)(1). This instruction to the Clerk is without prejudice to the right of any party at any time to move for expedited issuance of the mandate for good cause shown.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY:

Deputy Clerk