

March 2, 2012

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN ARCINIEGA-HERNANDEZ,

Defendant - Appellant.

No. 11-1307

(D.C. No. 1:10-CR-00406-MSK-1)

(D. Colorado)

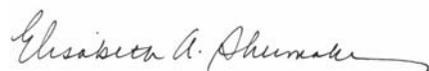
ORDER

Before **LUCERO, EBEL,** and **MATHESON,** Circuit Judges.

This matter is before the court following receipt of the parties' supplemental briefs addressing the impact of *United States v. Rosales-Garcia*, __F.3d__, 2012 WL 375518 (10th Cir. 2012), on this appeal. Upon consideration of those briefs, and recognizing the parties' agreement, we remand this matter to the United States District Court for the District of Colorado with instructions to vacate Mr. Arciniega-Hernandez' sentence and to resentence him in light of *Rosales-Garcia*. In this regard the district court may conduct all proceedings necessary, and may make all legal conclusions required, to conduct the resentencing. The oral argument hearing scheduled in this matter on March 20, 2012 is

vacated and all counsel are excused from attendance. This is a full remand which terminates this proceeding. A copy of this order shall stand as the mandate of the court.

Entered for the Court,

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker", with a long horizontal flourish extending to the right.

ELISABETH A. SHUMAKER

Clerk of Court