

JUN 25 2013

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JEFFERSON RAY MORGAN, JR.,

Defendant - Appellant.

No. 12-10303

D.C. No. 3:04-cr-00554-SMM-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Stephen M. McNamee, Senior District Judge, Presiding

Argued and Submitted June 12, 2013
San Francisco, California

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

Before: O'SCANNLAIN and HURWITZ, Circuit Judges, and SINGLETON,
District Judge.**

This Court accepts the government's concession that, in the interests of justice, Morgan's sentence should be vacated, *see United States v. Jones*, 696 F.3d 932, 937-38 (9th Cir. 2012) (discussing resolving a possible conflict between a sentence orally pronounced and the sentence contained in a subsequent written judgment), and that this case should be remanded for resentencing on an open record, *see United States v. Matthews*, 278 F.3d 880, 885 (9th Cir. 2002) (en banc). At oral argument Morgan did not object to this suggested resolution of his appeal.

Vacated and Remanded.

IT IS SO ORDERED.

** The Honorable James K. Singleton, Senior United States District Judge for the District of Alaska, sitting by designation.