

JUL 28 2014

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NOT FOR PUBLICATION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.

JOSE TRINIDAD CONTRERAS-AVINA,

Defendant - Appellant.

No. 13-30276

D.C. No. 2:13 cr-06011 WFN

ORDER*

Appeal from the United States District Court
for the Eastern District of Washington
Wm. Fremming Nielsen, Senior District Judge, Presiding

Argued and Submitted July 11, 2014
Seattle, Washington

Before: ALARCÓN, TASHIMA, and MURGUIA, Circuit Judges

The parties' revised joint motion to vacate and remand is granted.

Defendant-Appellant Contreras-Avina's conviction is vacated, the district court's order denying the motion to dismiss the indictment is vacated, and the case

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

remanded to the district court to stay further proceedings on the following conditions:

1. Contreras-Avina shall promptly file a motion to reopen with the Board of Immigration Appeals (“BIA”) and for such other relief as he deems appropriate.
2. Contreras-Avina shall promptly inform the district court when the BIA has ruled on his motion(s).
3. This stay shall expire when the BIA has ruled on Contreras-Avina’s motion(s).
4. Upon the expiration of this stay, the district court shall resume further proceedings in this case (including whether to issue any further stays), for such further proceedings as it deems necessary and appropriate.

This panel shall retain jurisdiction over any further appeals in this case.