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for the Third Circuit

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USA v. Pedro Arrelucea-Zamudio

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PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 08-4397

UNITED STATES OF AMERICA

v.

PEDRO MANUEL ARRELUCEA-ZAMUDIO,
a/k/a PEDRO ARRELUCEA

PEDRO MANUEL ARRELUCEA-ZAMUDIO
Appellant

Appeal from the United States District Court
for the District of New Jersey
(D.C. Criminal Action No. 1-08-cr-00136-001)
District Judge: Honorable Renee M. Bumb

Argued on July 9, 2009

Before: SLOVITER, AMBRO, and JORDAN, Circuit Judges

(Opinion filed September 14, 2009)

ORDER AMENDING PRECEDENTIAL OPINION

AMBRO, *Circuit Judge*

IT IS NOW ORDERED that the published Opinion in the above case filed September 14, 2009, be amended as follows:

On page 7, first paragraph, lines 8-9, replace “*United States v. Wise*, 515 F.3d 207, 217 (3d Cir. 2008).” with “*Id.*”.

On page 7, first paragraph, line 13, replace “*Id.*” with “*United States v. Wise*, 515 F.3d 207, 217 (3d Cir. 2008).”.

On page 11, note 4, 6th line, replace “247” with “247 n.10”.

On page 14, first full paragraph, line 10, delete “ at 567.”.

On page 14, first full paragraph, line 13, insert “(internal quotations and citation omitted)” after “at 568–69”.

On page 16, line beginning “*Id.*”, insert “(internal quotations and citation omitted)” after “(emphasis in original)”.

On page 18, note 6, line 6, insert “ (3d Cir. 2009)” after “n.50”.

On page 19, second line, insert “ (quoting 18 U.S.C. § 3553(a))” after “564”.

On page 19, note 7, line 5, insert “that” before “allowed”.

On page 21, line 5, replace “context. . . . [Nor do]” with “context. Nor do”.

On page 22, first full paragraph, line 7, replace “alteration” with “alterations”.

On page 28, lines 8-9, replace “*Kimbrough*, 128 S.Ct. at 574” with “*Id.*”.

On page 28, first full paragraph, line 5, replace “*Kimbrough*, 128 S.Ct.” with “*Id.*”.

On page 30, first full paragraph, line 8, insert “ (citation omitted)” after “Act”.

On page 30, first full paragraph, line 13, replace “*Kimbrough*, 128 S.Ct.” with “*Id.*”.

On page 31, line 21, replace “Az.” with “Ariz.”.

On page 32, note 11, line 7, replace “Az.” with “Ariz.”.

On page 33, 20th line, insert a footnote after “factors.” containing the following text:

We do not mean to suggest that a Guideline is due less deference because it is

congressionally directed. Instead, we recognize that a Guideline is likely to “reflect a rough approximation of sentences that might achieve § 3553(a)’s objectives,” *Kimbrough*, 128 S.Ct. at 574 (quoting *Rita*, 127 S.Ct. at 2465), only when it is the product of “empirical data and national experience, guided by a professional staff with appropriate expertise.” *Id.* (internal quotations and citation omitted).

On page 33, line 21, delete “(internal quotations and citations omitted)”.

On page 33, last line, replace “may vary “even in” with “may vary, as noted above, “even in”.

On page 35, line 10, replace “*Id.*” with “128 S.Ct. at 574.”.

On page 39, note 14, second paragraph, line 4, replace “United States” with “New Jersey”.

By the Court,

/s/ Thomas L. Ambro
Circuit Judge

Dated: December 29, 2009

tmk/cc: Jennifer H. Chin, Esq.

George S. Leone, Esq.

Caroline A. Sadlowski, Esq.

Maggie F. Moy, Esq.