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3-21-2019

USA v. Alexandro Gerandino-Aracena

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 17-1142

UNITED STATES OF AMERICA

v.

ALEXANDRO GERANDINO-ARACENA,
Appellant

On Appeal from the District Court of the Virgin Islands
Division of St. Thomas and St. John
(D.C. No. 3-15-cr-00041-001)
District Judge: Honorable Curtis V. Gomez

Argued December 10, 2018
Before: CHAGARES, HARDIMAN, and RESTREPO, *Circuit Judges*.

(Filed: March 21, 2019)

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OPINION*

HARDIMAN, *Circuit Judge*.

Alexandro Gerandino-Aracena appeals his judgment of conviction for federal drug trafficking and firearms possession offenses following a jury trial. His two arguments on appeal—that the District Judge presided over his case in violation of the Appointments Clause of the United States Constitution and that he was entitled to a trial in an Article III court—are foreclosed by our opinion in *United States v. Ayala*, --- F.3d ---, 2019 WL 1051579 (3d Cir. Mar. 6, 2019). As we held in *Ayala*, “a judge of the District Court of the Virgin Islands may serve past the expiration of the term, until the President nominates and the Senate confirms a successor.” *Id.* at *4; *see* *4–5. And Article IV, Section 3 of the Constitution and statutory grants of jurisdiction empower the District Court of the Virgin Islands to adjudicate federal criminal offenses. *Id.* at *2–3. We will therefore affirm the judgment of conviction and sentence.

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.