

**UNITED STATES OF AMERICA, Plaintiff - Appellee v. FRANK EDWIN PATE, Defendant - Appellant**  
**UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT**  
**2016 U.S. App. LEXIS 14161**  
**No. 15-41481**  
**April 8, 2016, Filed**

**Editorial Information: Subsequent History**

Magistrate's recommendation at United States v. Pate, 2016 U.S. Dist. LEXIS 99406 (E.D. Tex., June 30, 2016) Magistrate's recommendation at United States v. Pate, 2016 U.S. Dist. LEXIS 165428 (E.D. Tex., Sept. 2, 2016) Petition dismissed by United States v. Pate, 2018 U.S. Dist. LEXIS 120938 (D. Ariz., July 17, 2018) Post-conviction proceeding at, Magistrate's recommendation at Pate v. Trump, 2018 U.S. Dist. LEXIS 189771 (M.D. Ala., Nov. 5, 2018) Appeal dismissed by, Motion denied by United States v. Pate, 799 Fed. Appx. 296, 2020 U.S. App. LEXIS 10602 (5th Cir. Tex., Apr. 2, 2020) Post-conviction relief dismissed at, Without prejudice, Motion denied by Pate v. United States, 2020 U.S. Dist. LEXIS 109400 (E.D. Tex., June 23, 2020)

**Editorial Information: Prior History**

**{2016 U.S. App. LEXIS 1}** Appeals from the United States District Court for the Eastern District of Texas, Sherman. United States v. Pate, 2015 U.S. Dist. LEXIS 62524 (E.D. Tex., May 13, 2015)

**Counsel** For United States of America, Plaintiff - Appellee: Terri Lynn Hagan, Assistant U.S. Attorney, James Andrew Williams, Esq., COR LD NTC Government, Plano, TX.

For **Frank Edwin Pate**, Defendant - Appellant: Seth Kretzer, COR LD NTC CJA Appointment, Houston, TX.

**Judges:** Before JOLLY, DENNIS, and PRADO, Circuit Judges.

**Opinion**

PER CURIAM:

IT IS ORDERED that the joint motion to vacate the sentence and remand the case to the district court for resentencing is GRANTED.

IT IS FURTHER ORDERED that appellee's unopposed alternative motion for extension of time until thirty (30) days after denial of the motion to remand is DENIED as MOOT.

*Ex A*

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