

# United States Court of Appeals For the First Circuit

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No. 11-2282

UNITED STATES,

Appellee,

v.

ERIC GONZALEZ,

Defendant, Appellant.

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Lynch, Chief Judge,  
Howard and Thompson, Circuit Judges.

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## JUDGMENT

Entered: September 12, 2013

We reject defendant's argument that defendant's increased sentencing exposure based on the trial court's finding that defendant had been convicted of a prior felony drug offense violated the Sixth Amendment. Alleyne v. United States, 133 S.Ct. 2151, 2160 n. 1 (2013) (declining to revisit Almendarez-Torres); United States v. Carrigan, --- F.3d ---, 2013 WL 3778723, \*9 n.4 (1st Cir. July 19, 2013). But we agree that since the jury did not find a specific cocaine quantity above 500 grams, defendant's sentence must be vacated and the case remanded for further proceedings consistent with the Supreme Court's intervening decision in Alleyne v. United States, 133 S. Ct. 2151 (2013). The government's unobjected to motion to remand is granted.

Vacated and remanded.

By the Court:

/s/ Margaret Carter, Clerk.

cc:  
Karin Bell

Cory Flashner  
Dina Chaitowitz  
Mark Grady  
David Hennessy  
Eric Gonazlez  
Chauncey Wood

Honorable F. Dennis Saylor  
Rob Farrell, Clerk