

United States Court of Appeals For the First Circuit

No. 08-2424

UNITED STATES

Plaintiff - Appellee

v.

ALFRED W. TRENKLER

Defendant - Appellant

Before

Boudin, Selya and Howard,
Circuit Judges.

JUDGMENT

Entered: September 8, 2009

This court reversed a grant of coram nobis to defendant-appellant Alfred W. Trenkler, and ordered his criminal sentence be reinstated. Trenkler argues that the reinstatement of his criminal sentence should function as a sentencing or resentencing under the United States Constitution and Rule 43 of the Federal Rules of Criminal Procedure. Trenkler claims a right to a new sentencing hearing, a right to allocute, and a fresh opportunity to challenge the sentence on the substantive merits on direct appeal. The district court was not persuaded, and neither are we.

The reinstatement of a sentence on remand is not a sentencing or a resentencing for purposes of the Constitution or the Federal Rules of Criminal Procedure, and the rights Trenkler seeks to invoke are not triggered anew by such reinstatement. No reasonable interpretation of the law would require that Trenkler, the loser of the appeal challenging his receipt of coram nobis relief in the district court, be put in a better position than a similarly-situated defendant who was correctly denied coram nobis relief by the district court in the first instance.

The government's motion for summary affirmance is **granted** and the judgment is **affirmed** as per our Local Rule 27.0(c).

By the Court:

/s/ Richard Cushing Donovan, Clerk

cc: Jonathan M. Albano
Dina Michael Chaitowitz
James J. Dillon
Joan M. Griffin
Randall Ernest Kromm
James Francis Lang
Barbara A. Lenk
Corey A. Salsberg
James L. Sultan
David Gerard Tobin
Alfred W. Trenkler