

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 07-1291

UNITED STATES OF AMERICA,
v.
JOHNNY GUNTER,
Appellant

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Criminal No. 04-cr-00295-01)
District Judge: Honorable James T. Giles

Opinion and Judgment Entered June 9, 2008
Petition for Writ of Certiorari Granted April 27, 2009
Submitted on Remand from the Supreme Court
of the United States June 16, 2009

Before: FISHER, JORDAN, and VAN ANTWERPEN, *Circuit Judges*.

JUDGMENT ORDER

Appellant's conviction is AFFIRMED. The judgment of sentence entered by the District Court is VACATED and this case is REMANDED to the District Court for sentencing in light of *Spears v. United States*, 129 S. Ct. 840, 555 U.S. ---- (2009).

By the Court:
/s/ Franklin S. Van Antwerpen
Circuit Judge

DATED: June 24, 2009

cc: David L. McColgin, Esq.
Francis C. Barbieri Jr., Esq.