

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-5012

UNITED STATES OF AMERICA,

Plaintiff - Appellant,

versus

LUIS FELIPE GOMEZ,

Defendant - Appellee.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Peter J. Messitte, District Judge. (CR-04-386-PJM)

Argued: May 25, 2006

Decided: August 25, 2006

Before WILKINS, Chief Judge, GREGORY, Circuit Judge, and Joseph F. ANDERSON, Jr., Chief United States District Judge for the District of South Carolina, sitting by designation.

Reversed and remanded by unpublished per curiam opinion. Judge Gregory wrote a dissenting opinion.

ARGUED: David Ira Salem, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Greenbelt, Maryland, for Appellant. Dale Preston Kelberman, MILES & STOCKBRIDGE, P.C., Baltimore, Maryland, for Appellee. **ON BRIEF:** Allen F. Loucks, United States Attorney, Baltimore, Maryland; Chan Park, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Greenbelt, Maryland, for Appellant. Paul F. Kemp, Eric C. Willis, VENABLE, L.L.P., Rockville, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

The United States appeals an order of the district court dismissing the indictment against Luis Felipe Gomez. Gomez was charged with conducting an unlicensed money transmitting business. See 18 U.S.C.A. § 1960 (West Supp. 2006). The district court dismissed the indictment on the basis of its opinion in United States v. Talebnejad, 342 F. Supp. 2d 346 (D. Md. 2004). We agree with the district court that this case is in pari materia with Talebnejad. Accordingly, for the reasons set forth in our opinion reversing the district court, see United States v. Talebnejad, 2006 WL 2390645 (4th Cir. August 21, 2006), we reverse the dismissal of the indictment against Gomez and remand for further proceedings.

REVERSED AND REMANDED

GREGORY, Circuit Judge, dissenting:

For reasons enunciated in my separate opinion in United States v. Talebnejad, No. 04-4841(L), 2006 WL 2390645 (4th Cir. Aug. 21, 2006), I respectfully dissent. Here, as in Talebnejad, the indictment failed to allege a knowing and willful violation of the Maryland licensing law for activities after October 1, 2002. Because I would hold that the Government must prove a knowing and willful violation of Maryland's licensing law for conduct occurring after October 1, 2002, I would affirm the dismissal of the indictment.