

**05-998 UNITED STATES V. RESENDIZ-PONCE**

DECISION BELOW:425 F3d 729

LOWER COURT CASE NUMBER: 04-10302

**QUESTIONS PRESENTED:**

Whether the omission of an element of a criminal offense from a federal indictment can constitute harmless error.

Cert. Granted 4/17/2006

ORDERED 10/13/2006: THE PARTIES ARE DIRECTED TO FILE SUPPLEMENTAL BRIEFS ADDRESSING THE FOLLOWING QUESTION: "DID THE INDICTMENT OMIT AN ALLEGATION THAT WAS REQUIRED BY THE FIFTH AMENDMENT?"