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**STATEMENT OF THE ISSUES**

WHETHER THE DISTRICT COURT ABUSED ITS DISCRETION IN GRANTING A DOWNWARD DEPARTURE TO JESSE RAMOS, A DEFENDANT WHO P.5 678.EO1wR UNIQUE CIRCUM (SNCE S ANDO1wR(A) Tjj 82.5 -16.

## **STATEMENT OF FACTS**

The



always receive the same benefits from his participation as would a United States citizen.



think under the circumstances it is appropriate to grant the motion for



court retains

court's "heartland" analysis must bear in mind the "structure and theory of both relevant individual guidelines and the Guidelines taken as a whole." Id. at 96.

The



To counter these well-reasoned opinions, the government contends that a departure because of an alien's status runs counter to

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(same).

practicable. 18 U.S.C. § 3624(c). Finally, although the district court did not elaborate, it referred to “the circumstances” of Ramos’ case, which indisputably include the fact that he first came to the United States as the result of a parental decision, not his own. Contrary to the government’s contention, then, the reasons for the court’s departure

F.3d 574, 577 (8th Cir. 1998) (albeit in a different context, the court was “averse” to applying dicta describing it as having no binding effect upon the court).

The



will

3307). The lack of supervised release is therefore just one more benefit that Ramos will be denied because of his deportable alien status. It also bears pointing out that, when Ramos is deported, it will be to a country that is utterly foreign to him, given the fact that he spent his formative years in the United States. Under the circuit's precedent,

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NO. 00-3967 NEO

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

UNITED STATES OF AMERICA,  
Appellant,

vs.

JESSE V. RAMOS,  
Appellee.

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**CERTIFICATE OF SERVICE**

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JENNIFER L. GILG, after being first duly sworn states:

1. She is one of the attorneys for Appellee herein.
2. On

JESSE V. RAMOS, Appellee,

By \_\_\_\_\_

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