

**FILED**

April 15, 2005

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-51411

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

ELEAZAR ALCAYAGA-MALDONADO

Defendant - Appellant

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Appeal from the United States District Court for the  
Western District of Texas, El Paso  
3:04-CR-1563-ALL-KC  
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Before GARZA, DeMOSS, and CLEMENT, Circuit Judges.

PER CURIAM:\*

IT IS ORDERED that Appellee's unopposed motion to vacate the sentence is GRANTED.

IT IS FURTHER ORDERED that Appellee's unopposed motion to remand the case to district court for resentencing in light of the Supreme Court's opinion in Booker and this Court's opinion in Mares is GRANTED.

IT IS FURTHER ORDERED that Appellee's alternative request for an extension of time to file the Appellee's brief 14 days from the denial of Appellee's motion to vacate and remand is DISMISSED AS MOOT.

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\* Pursuant to 5<sup>TH</sup> CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5<sup>TH</sup> CIR. R. 47.5.4.