

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

FILED
July 8, 2005

No. 04-51433

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

MICHAEL WAYNE ROBERTS

Defendant - Appellant

Appeal from the United States District Court
for the Western District of Texas
(04-CR-57)

Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:

IT IS ORDERED that appellee's unopposed motion to vacate sentencing is granted.

IT IS FURTHER ORDERED that appellee's unopposed motion to remand to district court for re-sentencing in light of the Supreme Court's opinion in Booker and this Court's opinion in Mares is granted.

* Pursuant to 5th Cir. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

IT IS FURTHER ORDERED that appellee's unopposed motion to extend time to file appellee's brief 14 days from the Court's denial of appellee's motion to vacate and remand is denied as unnecessary.