

July 11, 2007

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 07-10035  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RAFAEL RUIZ-MARTINEZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 6:06-CR-41-1  
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Before JOLLY, CLEMENT, and OWEN, Circuit Judges.

PER CURIAM:\*

Appealing the Judgment in a Criminal Case, Rafael Ruiz-Martinez (Ruiz) preserves for further review his contention that his sentence is unreasonable because this court's post-Booker\*\* rulings have effectively reinstated the mandatory Sentencing Guideline regime condemned in Booker. Ruiz concedes that his argument is foreclosed by United States v. Mares, 402 F.3d 511 (5th Cir. 2005), and its progeny, which have outlined this court's methodology for reviewing sentences for reasonableness.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

\*\* United States v. Booker, 543 U.S. 220 (2005).

In light of Rita v. United States, \_\_\_ S. Ct. \_\_\_, 2007 WL 1772146 at \*6-11 (2007), the issue remains foreclosed. The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.