

FILED

April 27, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-51115

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

FRANCISCO FERRER-CASTANEDA

Defendant - Appellant

Appeal from the United States District Court for the
Western District of Texas, El Paso
3:04-CR-1090-ALL

Before WIENER, BENAVIDES, and STEWART, 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 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 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 DISMISSED as moot.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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