

August 5, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-51381

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

AGUSTIN ORTIZ-DE LA FUENTE

Defendant - Appellant

Appeal from the United States District Court for the
Western District of Texas, Del Rio

Before SMITH, GARZA, and PRADO, Circuit Judges.

PER CURIAM:¹

IT IS ORDERED that appellee's unopposed motion to vacate 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 recent opinion in US v. Booker and this Court's opinion in US v. Mares is GRANTED.

¹Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.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 alternative 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 MOOT.