

**FILED**

February 24, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-10539  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RON ASHLEY BEMBRY,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:03-CR-329-8  
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Before GARZA, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:\*

Appealing the Judgment in a Criminal Case, Ron Ashley Bembry raises arguments that are foreclosed by United States v. Scroggins, 411 F.3d 572, 576-77 (5th Cir. 2005), which held that the Due Process Clause does not bar the application of Justice Breyer's remedy opinion in United States v. Booker, 125 S. Ct. 738 (2005), when resentencing defendants in light of Booker. Bembry also raises arguments with respect to the appeal waiver in this case that are foreclosed by United States v. Cortez, 413

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

F.3d 502, 503 (5th Cir.), cert. denied, 126 S. Ct. 502 (2005),  
and United States v. Bond, 414 F.3d 542, 545-46 (5th Cir. 2005).

The Government's motion for summary affirmance is GRANTED, and  
the judgment of the district court is AFFIRMED.