

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

FILED

June 29, 2005

No. 05-50116

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

SERGIO VIVAR-ACOSTA also known as, Sergio Vivar

Defendant - Appellant

Appeal from the United States District Court
for the Western District of Texas
(03-CR-1893)

Before HIGGINBOTHAM, JONES, and PRADO, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the Appellee's unopposed motion to vacate the sentence is granted.

IT IS FURTHER ORDERED that the Appellee's unopposed motion to remand the case 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 the Appellee's unopposed

* Pursuant to 5th Cir. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

alternative motion to extend time to file the Appellee's brief fourteen (14) days from the Court's denial of the Appellee's motion to vacate and remand is denied.