

May 2, 2007

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 06-41055  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

HENDRIX OMAR MALDONADO-VASQUEZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 5:04-CR-2545-ALL  
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Before HIGGINBOTHAM, WIENER, and PRADO, Circuit Judges.

PER CURIAM:\*

Appealing the Judgment in a Criminal Case, Hendrix Omar Maldonado-Vasquez (Maldonado) 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. Maldonado concedes that his argument is foreclosed by United States v. Mares, 402 F.3d 511 (5th Cir.), cert. denied, 126 S. Ct. 43 (2005), and its progeny, which have outlined this court's

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

methodology for reviewing sentences for reasonableness.

Maldonado also raises arguments that are foreclosed by

Almendarez-Torres v. United States, 523 U.S. 224, 235 (1998),

which held that 8 U.S.C. § 1326(b)(2) is a penalty provision and

not a separate criminal offense. The Government's motion for

summary affirmance is GRANTED, and the judgment of the district

court is AFFIRMED.