

FILED

August 16, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 04-50476

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ADAN NARANJO-VELASQUEZ,

Defendant - Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:03-CR-2055-ALL-DB

Before JOLLY, DENNIS, and OWEN, Circuit Judges.

PER CURIAM:*

In this appeal, the Government apparently concedes that Naranjo-Velasquez can satisfy the third prong of the plain error standard of review by showing that the district court felt constrained by the Sentencing Guidelines and most likely would have imposed a lower sentence under an advisory guidelines regime. We find nothing in the record that disturbs the Government's representation. Accordingly, the sentence is VACATED and the case is REMANDED for resentencing in accordance with United States v. Booker, 125 S.Ct. 738 (2005).

VACATED and REMANDED.

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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