

**FILED**

November 15, 2005

Charles R. Fulbruge III  
Clerk

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-50889

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UNITED STATES OF AMERICA,  
Plaintiff-Appellee,

versus

BRENT HUGHES,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
No. SA-03-CR-52

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**ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES**

Before JOLLY, JONES, and WIENER, Circuit Judges.

PER CURIAM:\*

This court affirmed the judgment of conviction and sentence of Brent Hughes. See United States v. Hughes, No. 03-50889 (Oct. 21, 2004). The Supreme Court vacated and remanded for further consideration in light of United States v. Booker, 125 S. Ct. 738 (2005). See Hughes v. United States, 125 S. Ct. 1027 (2005). We requested and received supplemental letter briefs addressing the impact of Booker.

The Government concedes that Hughes preserved his

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

sentencing challenge before the district court, and that the error was not harmless. Accordingly, Hughes's conviction is **AFFIRMED**, and his sentence is **VACATED** and **REMANDED** for further proceedings consistent with this opinion and Booker.