

October 31, 2005

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-40871  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ISABEL RUANO,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 5:04-CR-238-1  
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Before JOLLY, DAVIS, and OWEN, Circuit Judges.

PER CURIAM:\*

Isabel Ruano appeals from the sentence imposed following her guilty plea to transporting illegal aliens for commercial gain. She argues that she was sentenced in contravention to United States v. Booker, 125 S. Ct. 738 (2005), when her sentence was enhanced pursuant to U.S.S.G. § 2L1.1(5) (2003) and by virtue of the fact that she was sentenced pursuant to the mandatory Sentencing Guidelines regime.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The district court, however, opined that if the Guidelines were held unconstitutional, it would impose the same sentence. Therefore, the Government has carried its burden of establishing that the sentencing errors suffered by Ruano were harmless beyond a reasonable doubt. United States v. Walters, 418 F.3d 461, 464 (5th Cir. 2005); United States v. Akpan, 407 F.3d 360, 376 (5th Cir. 2005).

AFFIRMED.