

FILED

October 24, 2005

Charles R. Fulbruge III
Clerk

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 04-40942
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-

Appellee,

versus

WELLINGTON ROELI GONZALEZ-CISNEROS,

Defendant-

Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:04-CR-148-ALL

Before BARKSDALE, STEWART and CLEMENT, Circuit Judges.

PER CURIAM:*

Wellington Roeli Gonzalez-Cisneros appeals the sentence imposed following his guilty plea to illegal reentry. He argues for the first time on appeal that he is entitled to resentencing because he was sentenced under the mandatory Guideline regime held unconstitutional in *United States v.*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Booker, 125 S. Ct. 738 (2005). We review this argument for plain error only. *United States v. Martinez-Lugo*, 411 F.3d 597, 600-01 (5th Cir. 2005).

Our review of the record does not reveal that the district court's error affected the outcome of the sentencing proceedings. *See United States v. Valenzuela-Quevedo*, 407 F.3d 728, 732-33 (5th Cir. 2005). Gonzalez has therefore failed to establish that the error affected his substantial rights, and he consequently cannot meet the plain error standard of review. *Id.* Given that Gonzalez is not entitled to resentencing, we pretermitted discussion of the validity of his appeal waiver.

AFFIRMED.