

FILED

April 26, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-51178

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

DAVID MONTES-MORALES also known as, Jose Abel Ramirez-Lopez

Defendant - Appellant

Appeal from the United States District Court for the
Western District of Texas, El Paso
3:04-CR-1447-ALL

Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

IT IS ORDERED that appellee's unopposed motion to vacate sentence is GRANTED.

IT IS FURTHER ORDERED that appellee's unopposed motion to remand for re-sentencing in light of the Supreme Court opinion in Booker and this Court's opinion in Mares is GRANTED.

IT IS FURTHER ORDERED that appellee's unopposed alternative motion for an extension of fourteen (14) days from this court's denial of appellee's motion to vacate and remand to file their brief is DENIED as moot.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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