

May 20, 2005

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-51389

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

AUDOMAR GARCIA-GUERRERO also known as, Jose Esquivel

Defendant - Appellant

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Appeal from the United States District Court for the  
Western District of Texas, El Paso  
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Before GARZA, DeMOSS, and CLEMENT, Circuit Judges.

PER CURIAM:\*

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

IT IS FURTHER ORDERED that the Appellee's unopposed motion to remand to District Court for resentencing in light of the Supreme Court's opinion in Booker and this Court's opinion in

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\*Pursuant to 5<sup>TH</sup> 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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5<sup>TH</sup> CIR. R. 47.5.4.

Mares is GRANTED.

IT IS FURTHER ORDERED that the Appellee's unopposed alternative motion to extend time to file the Appellee's brief until fourteen (14) days from the Court's denial of the Appellee's motion to vacate and remand is MOOT.