

June 21, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-40526
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LETICIA AGUILAR-TERAN,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:04-CR-620-ALL

Before STEWART, DENNIS, and OWEN, Circuit Judges.

PER CURIAM:*

Leticia Aguilar-Teran (Aguilar) appeals her sentence under 8 U.S.C. § 1324 for two counts of transporting an illegal alien. Aguilar asserts that the district court violated the Due Process and Ex Post Facto Clauses by sentencing her in accordance with the remedial portion of United States v. Booker, 543 U.S. 220 (2005), when she committed the offenses before Booker was issued. While this appeal was pending, we rejected this argument. See United States v. Austin, 432 F.3d 598, 599-600 (5th Cir. 2005).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Aguilar also asserts that the district court violated her rights under the Sixth Amendment by increasing her sentence based upon facts that were neither included in the indictment nor admitted by her. This argument is meritless because Aguilar was sentenced after Booker was issued. See United States v. Alonzo, 435 F.3d 551, 553 (5th Cir. 2006).

The judgment of the district court is AFFIRMED.