

May 2, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-20393
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

OSCAR RENE ROMERO,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:04-CR-243

Before HIGGINBOTHAM, WIENER, and PRADO, Circuit Judges.

PER CURIAM:*

Appealing the Judgment in a Criminal Case, Oscar Rene Romero preserves for further review his contention that his sentence is unreasonable because this court's post-Booker** rulings have effectively reinstated the mandatory Sentencing Guideline regime condemned in Booker. Romero concedes that his argument is foreclosed by United States v. Mares, 402 F.3d 511 (5th Cir.), cert. denied, 126 S. Ct. 43 (2005), and its progeny, which have outlined this court's methodology for reviewing sentences for

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

** United States v. Booker, 543 U.S. 220 (2005).

reasonableness. Romero also preserves for further review his contention that his sentence is unreasonable because of the court's refusal to consider his postsentencing rehabilitation. Romero concedes that this argument is foreclosed by United States v. Tzep-Mejia, 461 F.3d 522, 527 (5th Cir. 2006), which held that "Booker does not give sentencing courts the discretion to impose a non-Guideline sentence based on the courts' disagreement with Congressional and Sentencing Commission policy." The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.