

June 9, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-41409
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CAMILO RAMOS-HERNANDEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:04-CR-686-ALL

Before JONES, Chief Judge, and SMITH and DENNIS, Circuit Judges.

PER CURIAM:*

Camilo Ramos-Hernandez (Ramos) appeals his sentence following his guilty plea conviction for unlawfully transporting illegal aliens within the United States for profit. He argues that the district court reversibly erred in light of United States v. Booker, 543 U.S. 220 (2005), because the court sentenced him pursuant to a mandatory application of the Sentencing Guidelines.

The district court did err in sentencing Ramos pursuant to a mandatory guidelines system. See United States v. Walters,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

418 F.3d 461, 463 (5th Cir. 2005). The Government concedes that Ramos preserved this error for appeal. The Government, however, has not shown beyond a reasonable doubt that the error was harmless. See Walters, 418 F.3d at 463; United States v. Woods, 440 F.3d 255, 258-61 (5th Cir. 2006). Accordingly, Ramos's sentence is vacated, and this case is remanded for resentencing.

CONVICTION AFFIRMED; SENTENCE VACATED; REMANDED FOR RESENTENCING.