

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

April 13, 2005

No. 04-51121

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

RAY GENE BRASHER

Defendant - Appellant

Appeal from the United States District Court for the
Western District of Texas, Waco
6:04-CR-137-ALL

Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

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

IT IS FURTHER ORDERED that Appellee's unopposed motion to remand to district court for resentencing in light of the Supreme Court's recent opinion in US v. Booker and this Court's opinion in US v. Mares is GRANTED.

IT IS FURTHER ORDERED that Appellee's alternative request for an extension of time to file the Appellee's brief 14 days from the denial of Appellee's motion to vacate and remand 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.