

United States Court of Appeals

**For the Seventh Circuit
Chicago, Illinois 60604**

July 19, 2005

Before

Hon. FRANK H. EASTERBROOK, *Circuit Judge*

Hon. MICHAEL S. KANNE, *Circuit Judge*

Hon. ANN CLAIRE WILLIAMS, *Circuit Judge*

No. 02-2979

United States of America,
Plaintiff-Appellee,

v.

Nicole Davis,
Defendant-Appellant.

Appeal from the United States District
Court for the Northern District
of Illinois, Eastern Division.

No. 99 CR 928

Matthew F. Kennelly,
Judge.

O R D E R

On May 6, 2005, we ordered a limited remand so that the district court could determine whether it believed Nicole Davis's sentence remains appropriate now that *United States v. Booker*, 125 S. Ct. 738 (2005), has relegated the United States Sentencing Guidelines to advisory status. *See United States v. Paladino*, 401 F.3d 471 (7th Cir. 2005).

The district judge has replied that he would not impose the same sentence today knowing that the Guidelines are not mandatory. In *Paladino*, we stated, "If . . . the judge states on limited remand that he would have imposed a different sentence had he known the guidelines were merely advisory, we will vacate the original sentence and remand for resentencing." *Id.* at 484.

As such, we **VACATE** Defendant Davis's original sentence and **REMAND** this matter to the district court for resentencing.