

UNPUBLISHED ORDER
Not to be cited per Circuit Rule 53

United States Court of Appeals

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

August 26, 2005

Before

Hon. Richard A. Posner, *Circuit Judge*

Hon. Daniel A. Manion, *Circuit Judge*

Hon. Diane P. Wood, *Circuit Judge*

No. 03-3522

United States of America,
Plaintiff-Appellee,

v.

Noe Vasquez,
Defendant-Appellant.

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

No. 01 CR 1094

Ruben Castillo,
Judge.

O R D E R

Noe Vasquez challenged his sentence of 121 months' imprisonment in light of *United States v. Booker*, 125 S.Ct. 738 (2005), contending that the district court committed plain error in its application of the then-mandatory sentencing guidelines. Based on *United States v. Paladino*, 401 F.3d 471, 483-84 (7th Cir. 2005), we issued a limited remand to the Northern District of Illinois to determine whether it would impose the same sentence now that the Guidelines are no longer mandatory.

The district court has responded that it would again impose the identical sentence of 121 months on Vasquez post-*Booker*. Since Vasquez's sentence would remain the same, the *Booker* error did not affect Vasquez's substantial rights, and Vasquez cannot show plain error. *See id.* at 484. We will therefore affirm as long as the sentence is reasonable. *See id.*

We invited the parties to file arguments regarding the appropriate disposition in light of the district court's decision. Vasquez responded that he saw no basis to argue that the district court abused its discretion in reimposing the sentence. As the sentence falls within the applicable Guidelines range, it is presumptively reasonable. *United States v. Mykytiuk*, 415 F.3d 606 (7th Cir. 2005). Therefore, we AFFIRM the district court's original sentence.