

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

February 28, 2006

Before

Hon. JOEL M. FLAUM, *Chief Judge*¹

Hon. MICHAEL S. KANNE, *Circuit Judge*

Hon. ILANA DIAMOND ROVNER, *Circuit Judge*

No. 03-2506

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

FRANK DURAN,
Defendant-Appellant.

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

No. 01 CR 757

Ronald A. Guzman,
Judge.

ORDER

After being convicted of various charges arising out of his involvement in a drug distribution conspiracy, Frank Duran was sentenced to a lengthy term of imprisonment. On appeal, Duran argued, among other things, that his sentence violated the Sixth Amendment. *See United States v. Booker*, 543 U.S. 220 (2005); *United States v. Paladino*, 401 F.3d 471, 481 (7th Cir. 2005). We remanded to ask whether the judge would have imposed a lesser sentence had he known that the guidelines were advisory, *see Paladino*, 401 F.3d at 483–84. He answered that he would. Consequently, we VACATE Duran’s sentence and REMAND for resentencing.

¹Due to a change in circumstances, Judge Ripple has decided to recuse himself from further proceedings in this matter.