

United States Court of Appeals

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

May 30, 2006

Before

Hon. Kenneth F. Ripple, *Circuit Judge*

Hon. Daniel A. Manion, *Circuit Judge*

Hon. Diane P. Wood, *Circuit Judge*

No. 04-2397

United States of America,

Plaintiff-Appellee,

v.

Heliodoro Gonzalez-Rodriguez,

Defendant-Appellant.

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

No. 00 CR 1013

Robert W. Gettleman, *Judge.*

O R D E R

Heliodoro Gonzalez-Rodriguez pleaded guilty to conspiracy to possess 250 kilograms of cocaine with intent to distribute in violation of 21 U.S.C. §§ 841(a), 846. He argued for the first time on appeal that the district court erred by applying the sentencing guidelines as mandatory. *See United States v. Booker*, 543 U.S. 220 (2005). We remanded to ask whether the judge would have imposed a lesser sentence had he known that the guidelines were advisory. *See United States v. Paladino*, 401 F.3d 471, 483-84 (7th Cir.2005). The judge said he “likely would not have imposed as severe a sentence.” Therefore we VACATE Gonzalez-Rodriguez's sentence and REMAND for resentencing.