

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 02-1506

UNITED STATES OF AMERICA

v.

GARZON CORTES ROMERO,

Appellant

ON APPEAL FROM AN ORDER OF THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF NEW JERSEY

(Dist. Court No. 00-cr-00690)
District Court Judge: Joseph A. Greenaway, Jr.

Submitted Under Third Circuit LAR 34.1(a)
November 1, 2004

(Filed: April 21, 2005)

Before: ALITO, BARRY, and FUENTES, Circuit Judges

PER CURIAM

The only issue in this appeal is whether the District Court erred in failing to grant Romero a downward departure for substantial assistance where the Government did not move for one. In the wake of the Supreme Court's decision in United States v. Booker,

543 U.S. ___, 125 S. Ct. 738 (2005), this Circuit has determined that sentencing issues are best determined by the District Court in the first instance. Accordingly, we vacate the sentence and remand for resentencing in accordance with Booker.