

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 03-3068

UNITED STATES OF AMERICA

v.

ROBINSON GUZMAN,
Appellant

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

(Dist Court No. 02-CR-00761)
District Court Judge: Hon. John C. Lifland

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

Before: ALITO, BARRY, and FUENTES Circuit Judges.

(Filed: April 21, 2005)

OPINION OF THE COURT

PER CURIAM:

After pleading guilty pursuant to a plea agreement, the defendant in this case was sentenced under the Sentencing Guidelines. The sentencing occurred prior to the Supreme Court's decision in United States v. Booker, 543 U.S. ____ 125 S. Ct. 738 (2005). Defense counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), and has moved to withdraw. Our review of the record has disclosed only one non-frivolous issue that could be raised on appeal, namely, that the District Court erred in sentencing the defendant under the erroneous belief that the Sentencing Guidelines were mandatory rather than advisory. Moreover, having determined that issues with respect to Booker are best determined by the District Court in the first instance, we vacate the sentence and remand for resentencing in accordance with that opinion.