

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 04-4107

United States of America,

Appellee,

v.

Julian Castaneda,

Appellant.

*

*

*

*

*

*

*

*

*

Appeal from the United States
District Court for the District
of Minnesota.

[UNPUBLISHED]

Submitted: September 2, 2005

Filed: September 23, 2005

Before ARNOLD, FAGG, and SMITH, Circuit Judges.

PER CURIAM.

Julian Castaneda appeals the sentence the district court imposed after Castaneda was convicted of drug charges. Citing United States v. Booker, 125 S. Ct. 738 (2005), Castaneda argues for the first time the district court committed error in sentencing him under a mandatory Guidelines scheme. We conclude the Booker error is plain, and given the court's comments at sentencing while choosing a sentence at the bottom of the Guidelines range, Castaneda has shown a reasonable probability he would have received a lesser sentence under advisory Guidelines. See United States v. Pirani, 406 F.3d 543, 550-53 (8th Cir. 2005) (en banc), petition for cert. filed, (U.S. July 27, 2005) (No. 05-5547). Accordingly, we remand for resentencing.