

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-1481

United States of America,

Appellee,

v.

Jorge Amezcua-Campos,

Appellant.

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* Appeal from the United States

* District Court for the

* Western District of Arkansas.

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* [UNPUBLISHED]

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Submitted: July 29, 2005

Filed: August 8, 2005

Before MORRIS SHEPPARD ARNOLD, FAGG, and SMITH, Circuit Judges.

PER CURIAM.

Jorge Amezcua-Campos appeals the sentence imposed after he pleaded guilty to illegal reentry. He argues the district court's¹ finding (under advisory Sentencing Guidelines) that his prior conviction resulted in a 12-level increase in his offense level violated the Sixth Amendment. While Amezcua-Campos does not dispute the existence of the conviction, he argues based on United States v. Booker, 125 S. Ct. 738 (2005), that a jury must decide whether and to what extent the conviction justified an enhancement. We have previously concluded, however, that a sentencing

¹ The Honorable Jimm Larry Hendren, Chief Judge, United States District Court for the Western District of Arkansas.

judge may find not only the existence of a prior conviction, but also whether the conviction is one of the types qualifying for a sentence enhancement. See United States v. Kempis-Bonola, 287 F.3d 699, 702-03 (8th Cir.), cert. denied, 537 U.S. 914 (2002). This principle was unchanged by Booker. Cf. United States v. Marcussen, 403 F.3d 982, 984 (8th Cir. 2005) (rejecting argument that nature of prior conviction is to be treated differently from fact of prior conviction).. Accordingly, we affirm.
