

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-1653

United States of America,

Appellee,

v.

Salvador Ramirez-Becerra,

Appellant.

*

*

*

*

*

*

*

*

*

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

[UNPUBLISHED]

Submitted: March 13, 2006

Filed: March 20, 2006

Before WOLLMAN, FAGG, and RILEY, Circuit Judges.

PER CURIAM.

The Government charged Salvador Ramirez-Becerra with possession with intent to distribute five hundred grams or more of methamphetamine. Based on this drug quantity, Ramirez-Becerra faced a mandatory minimum sentence of ten years in prison. During the plea hearing, Ramirez-Becerra stated he understood the mandatory minimum sentence was ten years, and pleaded guilty. Later, Ramirez-Becerra did not object to the presentence report, which recommended the statutory minimum sentence of ten years. At the post-Booker sentencing, the parties agreed that the appropriate

range was 120 to 135 months. The district court* imposed the statutory minimum of 120 months in prison and five years of supervised release.

On appeal, Ramirez-Becerra contends Harris v. United States, 536 U.S. 545, 568-69 (2002) (holding judges may decide facts giving rise to mandatory minimum sentences) is no longer good law after Blakely v. Washington, 542 U.S. 296 (2004), and United States v. Booker, 543 U.S. 220 (2005). We have continued to apply Harris after Booker, however. United States v. Keller, 413 F.3d 706, 710 (8th Cir. 2005). Alternatively, Ramirez-Becerra argues that even if Harris remains good law, Booker required the district court to find drug quantity beyond a reasonable doubt. We have rejected this argument as well. United States v. McKay, 431 F.3d 1085, 1094 (8th Cir. 2005). In this case, there is simply no error under Blakely or Booker because Ramirez-Becerra admitted to possessing the drug quantity that dictated his statutory mandatory minimum sentence. See United States v. Alvarado-Rivera, 412 F.3d 942, 946 n.3 (8th Cir. 2005); United States v. Bolanos, 409 F.3d 1045, 1049 (8th Cir. 2005).

We thus affirm Ramirez-Becerra's sentence.

*The Honorable Richard G. Kopf, United States District Judge for the District of Nebraska.