

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-1904

Tomas Rodriguez, Jr.,

Appellant,

v.

United States of America,

Appellee.

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

[UNPUBLISHED]

Submitted: October 19, 2005

Filed: October 27, 2005

Before ARNOLD, FAGG, and SMITH, Circuit Judges.

PER CURIAM.

Thomas Rodriguez, Jr., appeals the district court's* judgment denying Rodriguez's 28 U.S.C. § 2255 motion to vacate his sentence. The sole issue presented is whether United States v. Booker, 125 S. Ct. 738 (2005), is retroactively applicable to final convictions on collateral review. This issue has been resolved adversely to Rodriguez in Never Misses A Shot v. United States, 413 F.3d 781, 783-84 (8th Cir. 2005) (per curiam), and his section 2255 motion is foreclosed. We affirm the district court. See 8th Cir. R. 47B.

*The Honorable John R. Tunheim, United States District Judge for the District of Minnesota.