

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 05-1404

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United States of America,

Appellee,

v.

Mario Borunda-Calahorra,

Appellant.

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Appeal from the United States  
District Court for the  
Western District of Arkansas

[UNPUBLISHED]

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Submitted: September 7, 2005

Filed: November 3, 2005

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Before BYE, McMILLIAN, and RILEY, Circuit Judges.

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PER CURIAM.

Mario Borunda-Calahorra appeals from the final judgment entered in the District Court<sup>1</sup> for the Western District of Arkansas upon his plea of guilty to illegal re-entry after deportation following conviction for an aggravated felony in violation of 8 U.S.C. § 1326(a), (b)(2). The district court sentenced Borunda-Calahorra to 33 months in prison. For reversal, Borunda-Calahorra argues based on United States v. Booker, 125 S. Ct. 738 (2005), that the district court violated the Sixth Amendment in finding that his prior conviction warranted a 12-level increase in his offense level.

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<sup>1</sup> The Honorable Robert T. Dawson, United States District Judge for the Western District of Arkansas.

We have already rejected a similar argument, see United States v. Torres-Alvarado, 416 F.3d 808 (8th Cir. 2005), and we conclude there was no Booker error because the district court calculated the sentencing range properly and treated the Sentencing Guidelines as advisory, see United States v. Salter, No. 04-3137, 2005 WL 1875709, at \*1 (8th Cir. Aug. 10, 2005). Accordingly, we affirm.

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