

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA)
)
 v.) CR-05-71-B-W
)
COSME SANCHEZ RAMIREZ)

**ORDER AFFIRMING THE RECOMMENDED DECISION
OF THE MAGISTRATE JUDGE**

On September 15, 2010, the Magistrate Judge filed with the Court her Recommended Decision (Docket # 275). Mr. Sanchez-Ramirez filed his objections to the Recommended Decision on October 12, 2010 (Docket # 276). The Court has reviewed and considered the Magistrate Judge’s Recommended Decision, together with the entire record. The Court has made a *de novo* determination of all matters adjudicated by the Magistrate Judge’s Recommended Decision and the Court concurs with the recommendations of the United States Magistrate Judge for the reasons set forth in her Recommended Decision. The Court determines no further proceeding is necessary.

In his objection, Mr. Sanchez-Ramirez has shifted ground from the competency of counsel claims he made in his § 2255 motion. *Movant’s Ob.* at 1. He objects solely on the basis that the Court should have imposed a below-guideline sentence and he cites *United States v. Booker*, 543 U.S. 220 (2005) for the proposition that the guidelines are only advisory. He pleads with the Court that it

“misunderstood its discretion to depart from the Sentencing Guidelines.” *Movant’s Ob.* at 1.

The Court has addressed this objection before and will do so once again. In Mr. Sanchez-Ramirez’s case, the guideline range was 235 to 293 months. *See Order on Mot. to Reduce Sentence* at 1 (Docket # 256). The Court fully understood its authority to depart from the guideline range, rejected that range, and sentenced Mr. Sanchez-Ramirez to a non-guideline sentence of 180 months. *Id.* The 180 month sentence was “the most lenient the Court could legally impose.” *Id.* Because Mr. Sanchez-Ramirez had been previously convicted of three qualifying crimes, he was deemed an armed career criminal and by operation of 18 U.S.C. § 924(e), Mr. Sanchez-Ramirez “was subject to a 180 month mandatory minimum sentence and the Court could not legally impose a lower sentence.” *Id.* at 2. Regarding Mr. Sanchez-Ramirez’s *Booker* argument, there was nothing more the Court could have done and nothing more the Court can do for Mr. Sanchez-Ramirez.

Regarding his § 2255 claims, the Court has carefully reviewed the Magistrate Judge’s thoughtful and comprehensive Recommended Decision and agrees with her recommendations precisely for the reasons set forth in her Recommended Decision. The Court ORDERS that the Recommended Decision of the Magistrate Judge is hereby AFFIRMED, and the Court DENIES Cosme Sanchez-Ramirez’s motion for relief under 28 U.S.C. § 2255 (Docket # 262). Should Cosme Sanchez-Ramirez file a notice of appeal, the Court DECLINES to issue a certificate of appealability because

there is no substantial showing of the denial of a constitutional right within the meaning of 28 U.S.C. § 2253(c)(2).

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
CHIEF UNITED STATES DISTRICT JUDGE

Dated this 21st day of October, 2010

Defendant (1)

COSME SANCHEZ RAMIREZ
TERMINATED: 01/18/2008

represented by **COSME SANCHEZ RAMIREZ**
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