

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-2838

Jon David Brooks,

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[UNPUBLISHED]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: November 3, 2005

Filed: November 9, 2005

Before ARNOLD, FAGG, and SMITH, Circuit Judges.

PER CURIAM.

Jon David Brooks filed a 28 U.S.C. § 2255 motion to vacate Brooks's sentence based on the Supreme Court's decision in Blakely v. Washington, 542 U.S. 296 (2004). The district court* denied relief, but granted a certificate of appealability on whether the ruling in Blakely--and now United States v. Booker, 125 S. Ct. 738 (2005)--applies retroactively to cases on collateral review. The rule announced in Booker does not apply to final criminal judgments on collateral review. See Never

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

Misses A Shot v. United States, 413 F.3d 781, 783-84 (8th Cir. 2005) (per curiam).
Accordingly, we affirm the judgment of the district court. See 8th Cir. R. 47B.
