

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 04-4130

United States of America,

Appellee,

v.

Emeterio Rojas Silva,

Appellant.

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Appeal from the United States
District Court for the
Southern District of Iowa.

[UNPUBLISHED]

Submitted: December 7, 2005

Filed: December 20, 2005

Before MELLOY, HANSEN, and GRUENDER, Circuit Judges.

PER CURIAM.

Emeterio Rojas Silva filed a 28 U.S.C. § 2255 motion seeking relief, based on the Supreme Court's holding in Blakely v. Washington, 542 U.S. 296 (2004), from his 120-month statutory-minimum sentence imposed on his drug convictions in 2002. The district court¹ denied relief, but granted a certificate of appealability on whether the rule announced in Blakely, or now United States v. Booker, 125 S. Ct. 738 (2005), applies retroactively to cases on collateral review. We have since decided that it does

¹The Honorable Harold D. Vietor, United States District Judge for the Southern District of Iowa.

not. See Never 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. Counsel's motion to withdraw is granted.
