

**FILED**

**NOV 26 2007**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

OSCAR LOPEZ-SERRANO, aka Mosca,

Defendant - Appellant.

No. 06-50522

D.C. No. CR-99-01292-GHK-3

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
George H. King, District Judge, Presiding

Submitted November 13, 2007\*\*

Before: TROTT, W. FLETCHER, and CALLAHAN, Circuit Judges.

Oscar Lopez-Serrano appeals from the district court's decision that it would not have imposed a materially different sentence following a limited remand under

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Lopez-Serrano contends that his sentence is unreasonable under *United States v. Booker*, 543 U.S. 220 (2005), because the district court relied on arguments that the government did not previously articulate, and because it compared his sentence to that of a co-defendant whose sentence was imposed and affirmed prior to *Booker*. However, our review of a district court's decision not to resentence a defendant following a remand pursuant to *Ameline* is limited to whether "the district [court] properly understood the full scope of [its] discretion" under *Booker*. See *United States v. Combs*, 470 F.3d 1294, 1297 (9th Cir. 2006). We conclude that the record reflects that the district court "understood [its] post-*Booker* authority to impose a non-Guidelines sentence." See *id.*

**AFFIRMED.**