

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

---

No. 03-15448  
Non-Argument Calendar

---

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT JUNE 30, 2005 THOMAS K. KAHN CLERK
--

D.C. Docket No. 02-10037-CR-JLK

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ABED ELHAKIM HIGASSI,  
a.k.a. Samuel Moshe Agassi,  
Abdel Hakim Heggassi,

Defendant-Appellant.

---

Appeal from the United States District Court  
for the Southern District of Florida

---

(June 30, 2005)

**ON REMAND FROM THE  
SUPREME COURT OF THE UNITED STATES**

Before ANDERSON, DUBINA and BARKETT, Circuit Judges.

PER CURIAM:

Appellant Abed Elhakim Higassi appeals his conviction and sentence for illegal re-entry into the United States, in violation of 8 U.S.C. § 1326(a) and (b)(2). We previously affirmed Appellant's conviction and sentence. *See United States v. Higassi*, 126 Fed. Appx. 462 (11th Cir. 2004). The Supreme Court vacated our prior decision and remanded the case to us for further consideration in light of *United States v. Booker*, 125 S. Ct. 738 (2005). However, Appellant did not raise any *Apprendi/Blakely/Booker* issue to this court in his initial brief. He did attempt to raise such an issue in a supplemental brief, but we denied him permission to do so. Appellant's failure to raise the issue in his initial brief bars him from doing so now, and the instructions in the Supreme Court's remand order do not compel a different conclusion. *See United States v. Sears*, \_\_F.3d\_\_, No. 03-16550, 2005 WL 1334892, at \*1 (11th Cir. June 8, 2005); *accord United States v. Dockery*, 401 F.3d 1261, 1262-63 (11th Cir. 2005).

Accordingly, we reinstate our previous opinion in this case and affirm, once again, Appellant's conviction and sentence after our consideration in light of *Booker*, pursuant to the Supreme Court's mandate.

**AFFIRMED.**