Decisive Decision: Fanfan's Case

Precedent & Context

In 1970, Congress enacted the **Controlled Substances Act (CSA)** to regulate potentially harmful and addictive substances for the American public. The CSA imposed two distinct types of provisions: the first for "registration" (use) and the second for "trafficking" (production, distribution, and possession) of controlled substances, with different punishments for use and trafficking based on the substance's level.

As of Fanfan's conviction in 2003:

- Powder cocaine and "crack" were equally dangerous, with little medical use
- 100:1 sentencing quantity ratio between powder cocaine and crack cocaine
- Based on Federal Sentencing Guidelines, Fanfan's total powder and crack quantity required a 188-235 month sentence

In ***Blakely v. Washington* (2004)**, however, the Supreme Court of the United States determined that judges cannot increase a criminal sentence based on facts not admitted by the defendant or decided by a jury.

Background of Arrest

- Prior to Fanfan's arrest, the United States investigated three other men involved in drug trafficking between the Maine and Massachusetts borders. These men cooperated in Fanfan's arrest in exchange for plea deals.
- On April 4th, 2003, a warrant was issued in Maine for Ducan Fanfan's arrest. That same day, he was arrested by federal narcotics agents in Massachusetts. Agents discovered a disputed amount of cocaine and 281.6 grams of crack cocaine (or cocaine base) in his car.
- Ducan Fanfan was charged with **"Conspiracy to Distribute Narcotics"** in violation of the Controlled Substances Act of 1970. The trial took place in the U.S. District Court for the District of Maine because Maine Marshals filed a criminal complaint against him, despite his Massachusetts residency.



United States v. Fanfan (2004)

Ducan Fanfan's trial lasted from September 29 to October 9, 2003.

- AUSA Helen Kazanjian represented the government
- Rosemary C. Scapiccio defended Fanfan

After both sides presented arguments and evidence, the jury found Fanfan guilty. During sentencing, Judge D. Brock Hornby encountered a dilemma. Some of the drugs were found in Fanfan's car in Massachusetts, so the evidence could not be considered by a jury in Maine's District Court. It could, however, be considered as a "sentencing-enhancing factor by the judge.

With the evidence the jury considered, Judge Hornby could only sentence Fanfan to 78 months. If he were to consider the drugs found in Massachusetts, Fanfan could be sentenced to up to 235 months in prison. Judge Hornby, however, did not believe he had the authority to consider evidence not reviewed by a jury due to the recent *Blakely v. Washington* decision. Because of this conflict, the United States Attorney appealed to the First Circuit and petitioned the Supreme Court for a *writ of certiorari*. After the Court granted the petition, it combined the case with *United States v. Booker* because of their similarities.

"Accordingly, following Blakely, I conclude that it is unconstitutional for me to apply the federal guideline enhancements in the sentence of Ducan Fanfan, which is to say, an increase in the drug quantity beyond that found by the jury, or any role enhancement. To do so would unconstitutionally impinge upon Mr. Fanfan's Sixth Amendment right to a jury trial as explained by Blakely."

-Judge D. Brock Hornby



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