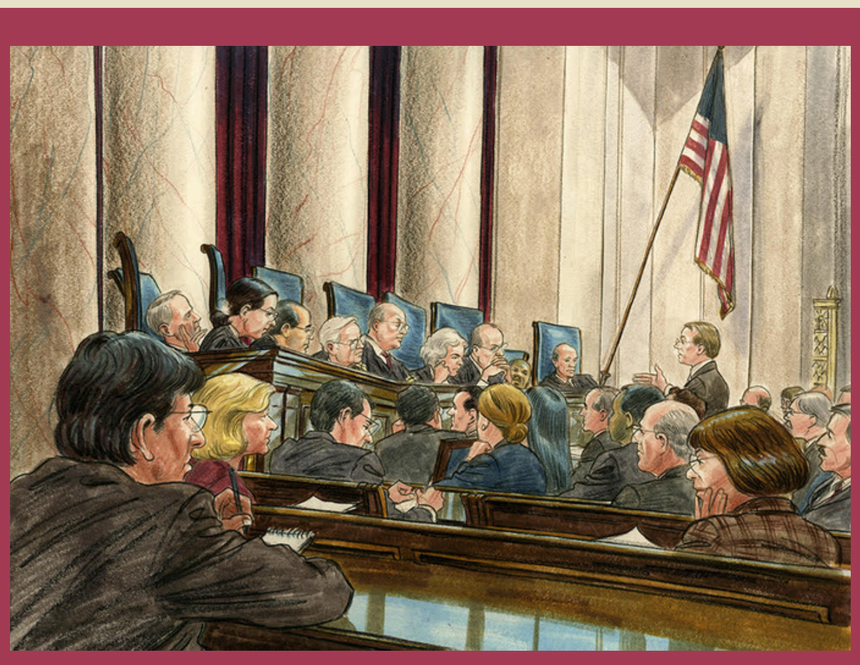
United States v. Booker (2005)

The Supreme Court's Solution



"Paul Clement Arguing Before the Rehnquist Court" 2004, courtesy of Art Lien,

BACKGROUND

Ducan Fanfan was sentenced to 78 months in prison on October 9, 2003, for conspiracy to distribute narcotics. Maine District Judge D. Brock Hornby did not consider additional elements of the case, including drugs found in Fanfan's car in Massachusetts, which could not be used in the Maine trial.

Comparably, although the jury did not find the additional elements, Wisconsin District Judge John C. Shabaz sentenced Freddie J. Booker to 360 months in prison on March 12, 2003. Unlike Judge Hornby, Judge Shabaz used additional information not presented to the jury to determine what he considered a fair sentence for Booker. The discrepancy between the two cases resulted from *Blakely v. Washington* (2004). In this precedent case, Blakely's Sixth Amendment right to a jury trial was violated. The Court ruled that all evidence must be both presented to a jury and proven beyond a reasonable doubt (not just considered by a Judge alone). The Supreme Court ruled on the Sixth Amendment jury issue in multiple prior cases, including *Apprendi v. New Jersey* (2000) and *Ring v. Arizona* (2002).

Arguments

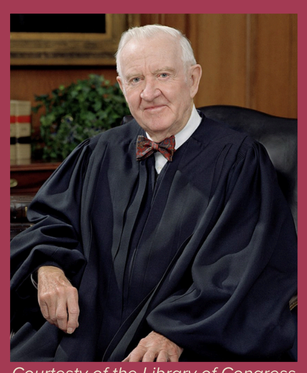
United States	Booker & Fanfan
The precedent set by *Blakely vs. Washington* (2004) does not apply to the federal sentencing guidelines. Instead, *Blakely*, along with A*pprendi* and *Ring*, applies only to elements of a crime that change the statutory maximums.	The precedent set by *Blakely vs. Washington* (2004) was correctly applied to the Fanfan case, but not to the Booker case. This violated Booker's Sixth Amendment rights, but not applying *Blakely* to Fanfan's case would have violated his.
The Federal Sentencing Guidelines are not the same as the statutory maximums set by the legislative branch.	The mandatory nature of the Federal Sentencing Guidelines gives them the effect of statutes.
The Federal Sentencing Guidelines can be used in tandem with the *Blakely* precedent without violating Sixth Amendment rights.	The Federal Sentencing Guidelines, in tandem with the *Blakely* precedent, violate Sixth Amendment rights.
The Court should keep the guidelines mandatory and require simply that juries prove all sentence-enhancing facts.	The mandatory nature of the Guidelines can be removed without redacting their primary purpose of reducing sentencing disparity.

Solicitor General: Paul Celement

Booker Counsel: T. Christopher Kelly

Fanfan Counsel: Rosemary Scapicchio

The Court's Decisions



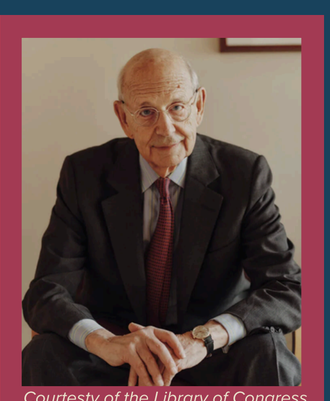
Courtesy of the Library of Congress

Majority Opinion

In a 5-4 opinion authored by Justice Stevens, the Supreme Court held that judges cannot increase a criminal sentence using facts not considered by the jury or admitted to by the defendant.

Remedial Opinion

To resolve the Sentencing Guidelines' incompatibility with the constitutional holdings found in the majority opinion, Justice Breyer authored a remedial opinion. In this opinion, the Court determined that the Sentencing Guidelines would be advisory, not mandatory. By severing the provision that made the Sentencing Guidelines mandatory, the Supreme Court gave judges more discretion in sentencing convicted criminals.



Courtesy of the Library of Congress

Dissenting Opinions

Justices Stevens, Breyer, Scalia, and Thomas each wrote separate dissenting opinions. Justice Breyer dissented, believing the Guidelines did not violate the Sixth Amendment and that they simply reflected traditional judicial sentencing practices. The remaining justices dissented regarding the constitutional remedy, wanting to keep the Guidelines mandatory.

"The Framers of the Constitution understood the threat of 'judicial despotism' that could arise from 'arbitrary punishments upon arbitrary convictions' without the benefit of a jury in criminal cases."
-Justice John Paul Stevens



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