

Update on United States Supreme Court Sentencing Cases





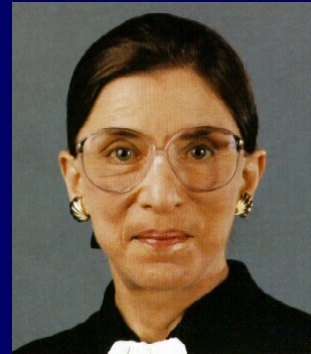
Background

- Apprendi v. New Jersey (2000) and Ring v. Arizona (2002).
 - **Except for prior convictions**, any fact that increases the penalty for a crime beyond the statutory maximum must be submitted to a jury.
 - Failure to do so violates the Sixth Amendment.
- Blakely v Washington (2004)
 - Mandatory sentencing guidelines that allow the statutory maximum to be exceeded violate the rule in Apprendi.



United States . v. Booker / Fan Fan (January 12, 2005)

- The federal mandatory sentencing guidelines are constitutionally no different than the ones found unconstitutional in Blakely.
- The court excised two provisions from the sentencing provisions of the U.S. Code:
 - The requirement that courts shall impose a sentence consistent with the guidelines; and
 - The right to appeal a sentence inconsistent with the guidelines.
- Result – Federal guidelines are “advisory” only.

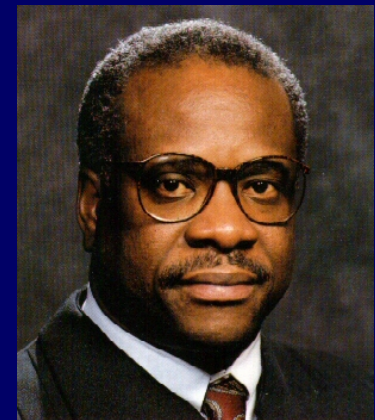
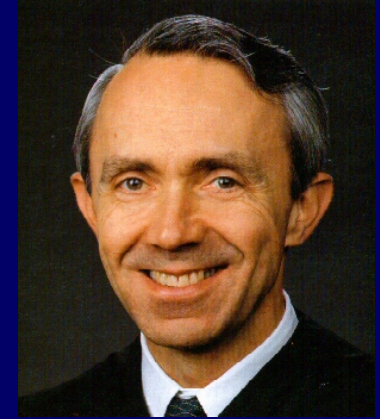




Shepard v. United States

(March 7, 2005)

- Armed Career Criminal Act – (federal 3 strikes statute) permits statutory enhancement of maximum sentence.
- To determine if a prior conviction qualifies, only judicial records such as charging documents, jury instructions, plea agreements, and court orders are relevant to determine the nature of the prior convictions.
- Although not decided on constitutional grounds, Justice Souter hints that permitting judges to determine the nature of the underlying charges by reference to police reports and complaints may violate the Sixth Amendment and Apprendi.
- Justice Thomas, concurring, would include criminal history in the list of facts which may only be found by a jury.





Questions?

