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Supreme Court - Cases Docketed Summaries of Recently Filed Cases

Sentencing--Federal guidelines--Enhancements based on judicial findings of fact-- Crack-to-powder cocaine sentencing disparity.

06-1311 **Stratton v. United States**

Ruling below (11th Cir., 205 Fed. Appx. 791):

Under advisory U.S. Sentencing Guidelines scheme mandated by *United States v. Booker*, 543 U.S. 220, 76 CrL 251 (2005), district judge may enhance defendant's sentence on basis of facts found by judge at sentencing by preponderance of evidence; *Booker* does not implicate ex post facto or due process concerns where defendant is aware of statutory maximum sentence applicable to his offense; guidelines' 100:1 crack-to-powder cocaine sentencing ratio is appropriate factor in determining sentence, since it reflects congressional policy decision that crack offenders should be punished more severely.

Questions presented: (1) Did application of *United States v. Booker*, 543 U.S. 220, 76 CrL 251 (2005), remedy result in de facto Sixth Amendment violation? (2) Under reasoning of *Apprendi v. New Jersey*, 530 U.S. 466, 67 CrL 459 (2000), *Ring v. Arizona*, 536 U.S. 584, 71 CrL 373 (2002), *Blakely v. Washington*, 542 U.S. 296, 75 CrL 284 (2004), and *Booker*, must any fact essential to imposition of sentence be established by proof beyond reasonable doubt? (3) Did use of 100:1 crack to powder cocaine ratio in determining guideline range on facts of defendant's case result in unreasonable sentence and did district court err in concluding that under *Booker* it was not free to disregard guideline-mandated disparity?

Petition for certiorari filed 3/28/07, by William Mallory Kent, of Jacksonville, Fla. 

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