

09-6822 PEPPER V. UNITED STATES

DECISION BELOW: 570 F.3d 958

LOWER COURT CASE NUMBER: 09-1191

QUESTION PRESENTED:

There is a conflict among the United States Courts of Appeals regarding a defendant's post-sentencing rehabilitation and whether it can support a downward sentencing variance under 18 U.S.C. § 3553(a).

Whether a federal district judge can consider a defendant's post-sentencing rehabilitation as a permissible factor supporting a sentencing variance under 18 U.S.C. § 3553 (a) after *Gall v. United States*?

Whether as a sentencing consideration under 18 U.S.C. § 3553(a), post-sentencing rehabilitation should be treated the same as post-offense rehabilitation.

When a district court judge is removed from resentencing a defendant after remand, and a new judge is assigned, is the new judge obligated under the doctrine of the "law of the case" to follow sentencing findings issued by the original judge that had been previously affirmed on appeal?

JUSTICE KAGAN TOOK NO PART

ORDER OF July 22, 2010:

ADAM G. CIONGOLI, ESQUIRE, OF NEW YORK, NEW YORK, IS INVITED TO BRIEF AND ARGUE THIS CASE, AS *AMICUS CURIAE*, IN SUPPORT OF THE JUDGMENT BELOW.

CERT. GRANTED 6/28/2010