

04-104 UNITED STATES V. BOOKER

DECISION BELOW: 375 F3d 508

LOWER COURT CASE NUMBER: 03-4225

QUESTION PRESENTED:

1. Whether the Sixth Amendment is violated by the imposition of an enhanced sentence under the United States Sentencing Guidelines based on the sentencing judge's determination of a fact (other than a prior conviction) that was not found by the jury or admitted by the defendant.
2. If the answer to the first question is "yes," the following question is presented: whether, in a case in which the Guidelines would require the court to find a sentence-enhancing fact, the Sentencing Guidelines as a whole would be inapplicable, as a matter of severability analysis, such that the sentencing court must exercise its discretion to sentence the defendant within the maximum and minimum set by statute for the offense of conviction.

CERTIORARI BEFORE JUDGMENT GRANTED. CONSOLIDATED WITH 04-105 FOR 2 HOURS ORAL ARGUMENT. EXPEDITED BRIEFING SCHEDULE.

CERT. GRANTED 8/2/2004