

04-105 UNITED STATES V. FANFAN

DECISION BELOW: not reported

LOWER COURT CASE NUMBER: 04-1946

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 04-104 FOR 2 HOURS ORAL ARGUMENT. EXPEDITED BRIEFING SCHEDULE.
CERT. GRANTED 8/2/2004**