

**06-7517 IRIZARRY V. UNITED STATES**

DECISION BELOW:458 F3d 1208

LOWER COURT CASE NUMBER: 05-11718

**QUESTIONS PRESENTED:**

Whether Federal Rule of Criminal Procedure 32(h), and the holding in *Burns v. United States*, 501 U.S. 129 (1991) requiring a court to provide reasonable notice to the parties that it is contemplating a departure from the applicable sentencing guideline range on a ground not identified for departure either in the presentence report or in a party's prehearing submission, has any continuing application in light of *United States v. Booker*, 543 U.S. 220 (2005).

CERT. GRANTED 1/4/2008

EXPEDITED BRIEFING SCHEDULE