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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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APPRENDI *v.* NEW JERSEY

CERTIORARI TO THE SUPREME COURT OF NEW JERSEY

No. 99–478. Argued March 28, 2000– Decided June 26, 2000

Petitioner Apprendi fired several shots into the home of an African-American family and made a statement– which he later retracted– that he did not want the family in his neighborhood because of their race. He was charged under New Jersey law with, *inter alia*, second-degree possession of a firearm for an unlawful purpose, which carries a prison term of 5 to 10 years. The count did not refer to the State's hate crime statute, which provides for an enhanced sentence if a trial judge finds, by a preponderance of the evidence, that the defendant committed the crime with a purpose to intimidate a person or group because of, *inter alia*, race. After Apprendi pleaded guilty, the prosecutor filed a motion to enhance the sentence. The court found by a preponderance of the evidence that the shooting was racially motivated and sentenced Apprendi to a 12-year term on the firearms count. In upholding the sentence, the appeals court rejected Apprendi's claim that the Due Process Clause requires that a bias finding be proved to a jury beyond a reasonable doubt. The State Supreme Court affirmed.

Held: The Constitution requires that any fact that increases the penalty for a crime beyond the prescribed statutory maximum, other than the fact of a prior conviction, must be submitted to a jury and proved beyond a reasonable doubt. Pp. 7–31.

(a) The answer to the narrow constitutional question presented– whether Apprendi's sentence was permissible, given that it exceeds the 10-year maximum for the offense charged– was foreshadowed by the holding in *Jones* v. *United States*, 526 U. S. 227, that, with regard to federal law, the Fifth Amendment's Due Process Clause and the Sixth Amendment's notice and jury trial guarantees require that any fact other than prior conviction that increases the maximum penalty for a crime must be charged in an indictment, submitted to a jury,

and proved beyond a reasonable doubt. The Fourteenth Amendment commands the same answer when a state statute is involved. Pp. 7–9.

(b) The Fourteenth Amendment right to due process and the Sixth Amendment right to trial by jury, taken together, entitle a criminal defendant to a jury determination that he is guilty of every element of the crime with which he is charged, beyond a reasonable doubt. *E.g.*, *In re Winship*, 397 U. S. 358, 364. The historical foundation for these principles extends down centuries into the common law. While judges in this country have long exercised discretion in sentencing, such discretion is bound by the range of sentencing options prescribed by the legislature. See, *e.g.*, *United States* v. *Tucker*, 404 U. S. 443, 447. The historic inseparability of verdict and judgment and the consistent limitation on judges' discretion highlight the novelty of a scheme that removes the jury from the determination of a fact that exposes the defendant to a penalty exceeding the maximum he could receive if punished according to the facts reflected in the jury verdict alone. Pp. 9–18.

(c) *McMillan* v. *Pennsylvania*, 477 U. S. 79, was the first case in which the Court used "sentencing factor" to refer to a fact that was not found by the jury but could affect the sentence imposed by the judge. In finding that the scheme at issue there did not run afoul of *Winship*'s strictures, this Court did not budge from the position that (1) constitutional limits exist to States' authority to define away facts necessary to constitute a criminal offense, *id.*, at 85–88, and (2) a state scheme that keeps from the jury facts exposing defendants to greater or additional punishment may raise serious constitutional concerns, *id.*, at 88. *Almendarez-Torres* v. *United States*, 523 U. S. 224– in which the Court upheld a federal law allowing a judge to impose an enhanced sentence based on prior convictions not alleged in the indictment– represents at best an exceptional departure from the historic practice. Pp. 19–24.

(d) In light of the constitutional rule expressed here, New Jersey's practice cannot stand. It allows a jury to convict a defendant of a second-degree offense on its finding beyond a reasonable doubt and then allows a judge to impose punishment identical to that New Jersey provides for first-degree crimes on his finding, by a preponderance of the evidence, that the defendant's purpose was to intimidate his victim based on the victim's particular characteristic. The State's argument that the biased purpose finding is not an "element" of a distinct hate crime offense but a "sentencing factor" of motive is nothing more than a disagreement with the rule applied in this case. Beyond this, the argument cannot succeed on its own terms. It does not matter how the required finding is labeled, but whether it ex-

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poses the defendant to a greater punishment than that authorized by the jury's verdict, as does the sentencing "enhancement" here. The degree of culpability the legislature associates with factually distinct conduct has significant implications both for a defendant's liberty and for the heightened stigma associated with an offense the legislature has selected as worthy of greater punishment. That the State placed the enhancer within the criminal code's sentencing provisions does not mean that it is not an essential element of the offense. Pp. 25–31.

159 N. J. 7, 731 A. 2d 485, reversed and remanded.

STEVENS, J., delivered the opinion of the Court, in which SCALIA, SOUTER, THOMAS, and GINSBURG, JJ., joined. SCALIA, J., filed a concurring opinion. THOMAS, J., filed a concurring opinion, in which SCALIA, J., joined as to Parts I and II. O'CONNOR, J., filed a dissenting opinion, in which REHNQUIST, C. J., and KENNEDY and BREYER, JJ., joined. BREYER, J., filed a dissenting opinion, in which REHNQUIST, C. J., joined.