

To: Tim McGrath
Staff Director

Through: Charlie Tetzlaff
General Counsel

From: Kelley Land
Staff Attorney

Re: Office of General Counsel's *Blakely* Database

The Office of General Counsel has created a database for the purpose of tracking lower federal opinions regarding the Supreme Court's decision in *Blakely v. Washington*. However, this database is not meant to be exhaustive of all decisions discussing the varied issues raised by the *Blakely* opinion (*i.e.*, applicability, constitutionality, severability, retroactivity, etc.). Only cases which are on Westlaw, Lexis-Nexis, and PACER are included.

In general, in those circuits in which the circuit court has rendered a comprehensive ruling on the affect of *Blakely* on the guidelines, the database contains substantive district court cases decided prior to the date of the circuit court's opinion, as well as the comprehensive circuit court opinions. In those circuits in which the circuit court has not rendered a comprehensive *Blakely* opinion, the database includes the substantive district court opinions to date, and those opinions in which the circuit courts have touched on a peripheral *Blakely* issue. Finally, cases in both district and circuit courts which include either a unique handling of a *Blakely* issue or which speak to a general trend are included.

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 1 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

Court held guidelines unconstitutional and did not apply at all. 11

<u>Defendants</u>	<u>Citation to Source(s)</u>
Agett, Deborah Katelyn	U.S. v. Agett, 327 F. Supp. 2d 899 (E.D. Tenn. 2004)
Baert, John C.	U.S. v. Baert, 2004 U.S. Dist. LEXIS 17911 (D. Me. Sept. 8, 2004)
Einstman, Paul G.	U.S. v. Einstman, 325 F. Supp. 2d 373 (S.D.N.Y. 2004)
Khoury, Rani	U.S. v. Khoury, Pacer Docket Report No. 6:04-cr-24-Orl-31DAB (M.D. Fla. July 21, 2004)
Marrero, Erik	U.S. v. Marrero, 325 F. Supp. 2d 453 (S.D.N.Y. 2004)
Medas, Karl Neil	U.S. v. Medas, 2004 U.S. Dist. LEXIS 12135 (E.D.N.Y. July 1, 2004)
Mueffleman, Steven D.	U.S. v. Mueffleman, 327 F. Supp. 2d 79 (D. Mass. 2004)
Parson, Charles Matthew	U.S. v. Parson, Pacer Docket Report No. 6:03-cr-204-Orl-31DAB (M.D. Fla. July 22, 2004)
Pirani, Louis F.	U.S. v. Pirani, 2004 U.S. App. LEXIS 16117 (8th Cir. Aug. 5, 2004)
Shearer, Kenneth	U.S. v. Shearer, 2004 WL 1795085 (7th Cir. Aug. 12, 2004)
Sisson, Carl	U.S. v. Sisson, 326 F. Supp. 2d 203 (D. Mass. 2004)

Court held guidelines unconstitutional, but used in an advisory capacity. 14

<u>Defendants</u>	<u>Citation to Source(s)</u>
Carter, Philip Wayne	U. S. v. Carter, 2004 U.S. Dist. LEXIS 14433 (C.D. Ill. July 23, 2004)
Chetty, Kesavalu	U.S. v. Chetty, 2004 U.S. App. LEXIS 17935 (9th Cir. Aug. 23, 2004)
Croxford, Brent	U.S. v. Croxford, 324 F. Supp. 2d 1230 (D. Utah 2004)
Hakley, Gail Marie	U.S. v. Hakley, 2004 U.S. Dist. LEXIS 15784 (W.D. Mich. Aug. 13, 2004)
Harris, Nicole	U. S. v. Harris, 325 F. Supp. 2d 562 (W.D. Pa. 2004)
King, Jaamar Julius	U.S. v. King, 328 F. Supp. 2d 1276 (M.D. Fla. 2004)
Leach, Frederick	U. S. v. Leach, 325 F. Supp. 2d 557 (E.D. Pa. 2004)
Lockett, Roddeeka	U. S. v. Lockett, 325 F. Supp. 2d 673 (E.D. Va. 2004)
Marrero, Erik	U.S. v. Marrero, 325 F. Supp. 2d 453 (S.D.N.Y. 2004)
Mooney, Michael Alan	U.S. v. Mooney, 2004 U.S. App. LEXIS 15301 (8th Cir. July 23, 2004)
Mueffleman, Steven D.	U.S. v. Mueffleman, 327 F. Supp. 2d 79 (D. Mass. 2004)

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 2 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

<u>Defendants</u>	<u>Citation to Source(s)</u>
Pirani, Louis F.	U.S. v. Pirani, 2004 U.S. App. LEXIS 16117 (8th Cir. Aug. 5, 2004)
Sisson, Carl	U.S. v. Sisson, 326 F. Supp. 2d 203 (D. Mass. 2004)
Ward, Aishauna	U.S. v. Ward, 377 F.3d 671 (7th Cir. 2004)

Court applied guidelines but no Chapter 2 enhancements beyond those of jury/plea. 9

<u>Defendants</u>	<u>Citation to Source(s)</u>
Davis, Kelli	U.S. v. Davis, 2004 U.S. Dist. LEXIS 16044 (C.D. Cal. Aug. 13, 2004)
Grant, Sylvester	U.S. v. Grant, 329 F. Supp. 2d 1305 (M.D. Fla. 2004)
LaFlora, Marico M.	U.S. v. LaFlora, 2004 WL 1851533 (D. Kan. July 16, 2004)
Leach, Frederick	U. S. v. Leach, 325 F. Supp. 2d 557 (E.D. Pa. 2004)
Messino, Christopher B.	U.S. v. Messino, 2004 U.S. App. LEXIS 18343 (7th Cir. Aug. 31, 2004)
Shamblin, Ronald	U. S. v. Shamblin, 323 F. Supp. 2d 757 (S.D.W.V. 2004).
Terrell, Chuck	U.S. v. Terrell, 2004 U.S. Dist. LEXIS 13781 (D. Neb. July 22, 2004)
Toro, Frank	U.S. v. Toro, 2004 U.S. Dist. LEXIS 12763 (D. Conn. July 6, 2004)
Watson, Dwight W.	U.S. v. Watson, 2004 U.S. App. LEXIS 13780 (D.C. Cir. July 1, 2004)

Court applied guidelines but no Chapter 3 adjustments beyond those of jury/plea. 5

<u>Defendants</u>	<u>Citation to Source(s)</u>
Grant, Sylvester	U.S. v. Grant, 329 F. Supp. 2d 1305 (M.D. Fla. 2004)
Leach, Frederick	U. S. v. Leach, 325 F. Supp. 2d 557 (E.D. Pa. 2004)
Messino, Christopher B.	U.S. v. Messino, 2004 U.S. App. LEXIS 18343 (7th Cir. Aug. 31, 2004)
Shamblin, Ronald	U. S. v. Shamblin, 323 F. Supp. 2d 757 (S.D.W.V. 2004).
Watson, Dwight W.	U.S. v. Watson, 2004 U.S. App. LEXIS 13780 (D.C. Cir. July 1, 2004)

Court applied guidelines (all of Chapter 2 and 3), but not otherwise applicable upward departure. 1

<u>Defendants</u>	<u>Citation to Source(s)</u>
Montgomery, Robert William	U.S. v. Montgomery, 324 F. Supp. 2d 1266 (D. Utah 2004)

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 4 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

<u>Defendants</u>	<u>Citation to Source(s)</u>
	Tex. Aug. 6, 2004)
Olivera-Hernandez, Transito Jacinto	U.S. v. Olivera-Hernandez, 2004 U.S. Dist. LEXIS 14462 (D. Utah July 12, 2004)
Onunwor, Emmanuel	U.S. v. Onunwor, Pacer Docket Report: 1:04-CR-211 (N.D. Ohio Aug. 19, 2004)
Osamor, Oyenokachikem Charles	U.S. v. Osamor, 2004 U.S. App. LEXIS 17604 (5th Cir. Aug. 19, 2004)
Paris, Martin Lee	U.S. v. Paris, 2004 WL 1846128 (D. Kan. July 27, 2004)
Reese, Eric Orlando	U.S. v. Reese, 2004 U.S. App. LEXIS 18605 (11th Cir. Sept. 2, 2004)
Scroggins, Donald Craig	U.S. v. Scroggins, 379 F.3d 233 (5th Cir. 2004)
Shipman, Edwar Venez	U.S. v. Shipman, 2004 U.S. App. LEXIS 17743 (4th Cir. Aug. 20, 2004)
Stoltz, James Clarence	U.S. v. Stoltz, 325 F. Supp. 2d 982 (D. Minn. July 19, 2004)
Strawhorn, Jerry	U.S. v. Strawhorn, 2004 U.S. Dist. LEXIS 16284 (N.D. Ill. Aug. 13, 2004)
Thomas, Frazier	U.S. v. Thomas, 2004 U.S. App. LEXIS 17501 (5th Cir. Aug. 17, 2004)
Willis, Quaneka	U.S. v. Willis, 327 F. Supp. 2d 954 (E.D. Wis. 2004)

Court used guidelines to sentence case, ruling Blakely does not apply retroactively. 15

<u>Defendants</u>	<u>Citation to Source(s)</u>
Branch, Darrell	U.S. v. Branch, 2004 U.S. Dist. LEXIS 17774 (N.D. Ill. Sept. 3, 2004)
Concepcion, Manuel	U.S. v. Concepcion, 2004 U.S. Dist. LEXIS 16809 (E.D.N.Y. Aug. 25, 2004)
Diaz-Diaz, Jose G.	U.S. v. Diaz-Diaz, 2004 U.S. App. LEXIS 17426 (8th Cir. Aug. 19, 2004)
Dillon, John R.	U.S. v. Dillon, 2004 WL 2252077 (D. Kan. Sept. 28, 2004)
Falodun, Bright Idada	U.S. v. Falodun, 2004 U.S. Dist. LEXIS 21740 (D. Minn. Oct. 25, 2004)
Flannagan, Boyd	U.S. v. Flannagan, 2004 U.S. Dist. LEXIS 15523 (W.D. Wis. July 26, 2004)
Lilly, Lisa K.	U.S. v. Lilly, 2004 U.S. Dist. LEXIS 21623 (W.D. Va. Oct. 28, 2004)
Lowe, Harry Dewayne	U.S. v. Lowe, 2004 U.S. Dist. LEXIS 15455 (N.D. Ill. Aug. 9, 2004)
Morris, Darryl	U.S. v. Morris, 2004 U.S. Dist. LEXIS 17639 (C.D. Ill. September 1, 2004)
Orchard, Robert	Orchard v. U.S., 2004 U.S. Dist. LEXIS 17646 (D. Me. Sept. 2, 2004)
Patterson, Julius Earl	U.S. v. Patterson, 2004 U.S. Dist. LEXIS 12402 (E.D. Mich. June 25, 2004)
Raney, Kenneth J.	U.S. v. Raney, 2004 U.S. Dist. LEXIS 17106 (N.D. Ill. Aug. 25, 2004)

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 5 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

<u>Defendants</u>	<u>Citation to Source(s)</u>
Stapleton, Norman	U.S. v. Stapleton, 2004 U.S. Dist. LEXIS 17630 (N.D. Ill. Aug. 31, 2004)
Stoltz, James Clarence	U.S. v. Stoltz, 325 F. Supp. 2d 982 (D. Minn. July 19, 2004)
Tidwell, Samuel	U.S. v. Tidwell, 2004 U.S. Dist. LEXIS 16842 (N.D. Ill. Aug. 24, 2004)

Other

129

Other text

No. of Defendant Cases

Citation to Source(s)

Court finds GLs may be constitutionally applied only in cases where no judicial factfinding is required to calculate a sentence, other than prior conviction; but cannot be applied in this case.	1	Agett, Deborah Katelyn	U.S. v. Agett, 327 F. Supp. 2d 899 (E.D. Tenn. 2004)
Court remanded for resentencing, requiring jury determination of Chapter 2 base offense level and enhancements.	1	Ameline, Alfred Arnold	U.S. v. Ameline, 376 F.3d 967 (9th Cir. 2004)
Court did not state whether or not the guidelines were affected by Blakely, but stated it would address the Blakely concerns with a special verdict sheet if and when it was deemed necessary to do so.	1	Atiyeh, George	U.S. v. Atiyeh, 2004 U.S. Dist. LEXIS 16019 (E.D. Pa. Aug. 4, 2004)
Court used guidelines to sentence case, ruling Blakely claim brought for first time on Motion for Post-Submission Consideration did not amount to plain error.	1	Badilla, Sergio Duran	U.S. v. Badilla, 2004 U.S. App. LEXIS 16646 (N.M. Aug. 12, 2004)
Pre-sentencing decision; def filed motion to strike allegations in an indictment, court denied the request, but cited Fanfan holding guidelines were unconstitutional.	1	Baert, John C.	U.S. v. Baert, 2004 U.S. Dist. LEXIS 17911 (D. Me. Sept. 8, 2004)
Court ruled that the defendant's Blakely appeal had no merit because he admitted to the drug quantity in his plea agreement.	1	Bahena, Ruben Roman	U.S. v. Bhaena, 2004 U.S. App. LEXIS 14300 (7th Cir. July 8, 2004)
Court applied guidelines through the use of a jury finding of sentencing factors.	1	Banton, Elvis O.	U.S. v. Banton, 2004 U.S. Dist. LEXIS 20401 (E.D.N.Y. Oct. 12, 2004)
Pre-Blakely sentencing; on remand, circuit court reminded the district court to be mindful to sentence the defendant in a manner consistent with	1	Barton, George E.	U.S. v. Barton, 2004 U.S. App. LEXIS 16276 (E.D. Wash. Aug. 4, 2004)

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 6 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

<u>Other text</u>	<u>No. of Defendant Cases</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
Blakely.			
Pre-Blakely sentencing; court denied the defendant's request to amend his 28 USC 2255 motion to raise a claim under Blakely because Blakely does not apply in the 28 USC 2255 context.	1	Beatty, Gary Lee	U.S. v. Beatty, 103 Fed. Appx. 785 (4th Cir. 2004)
Pre-sentencing decision; court will continue to sentence under the GLs to extent that factors increasing the "maximum" are charged in indictment and admitted or submitted to a jury. Court noted that it need not consider whether Blakely invalidates the guidelines in this case.	1	Benitez-Hernandez, Daniel	U.S. v. Benitez-Hernandez, 2004 U.S. Dist. LEXIS 20937 (D. Neb. Oct. 19, 2004)
Court made no ruling on the constitutionality of the guidelines and held that Blakely did not apply in this case because the defendant pleaded to all the facts necessary to support the enhancement.	1	Bishop, Christopher	Bishop v. U.S., 2004 U.S. Dist. LEXIS 22543 (S.D.N.Y. Nov. 8, 2004)
Court remanded for resentencing, authorizing trial court to empanel a sentencing jury to determine, under beyond the reasonable doubt standard, any Chapter 2 enhancements or Chapter 3 adjustments.	1	Black, Kevin	U.S. v. Black, 2004 U.S. Dist. LEXIS 17895 (D. Del. Sept. 8, 2004)
Court held that Blakely applies at least to certain aspects of the federal guideline sentencing scheme and remanded the case for further proceedings.	1	Booker, Freddie J.	U.S. v. Booker, 375 F.3d 508 (W.D. Wis. 2004)
Pre-sentencing decision; defendant's motion relates to the indictment. The court made no decision on the guidelines.	1	Booth, Michael David	U.S. v. Booth, 2004 WL 2283778 (9th Cir. Oct. 7, 2004)
Pre-sentencing decision; no decision has been made relative to the effect of Blakely on the guidelines.	1	Brown, Josh	U.S. v. Brown, 2004 WL 2029444 (D. Me. Sept. 10, 2004)
Court used the guidelines, ruling Blakely not implicated in this case where def. admitted facts used for enhancements (also see U.S. v. Saldivar-Trujillo, 6th Cir. 8/26/04; same holding).	1	Brown, Shaun	U.S. v. Brown, 2004 WL 1879949 (N.D. Ill. Aug. 18, 2004)
	1	Burns, Gregory Scott	U.S. v. Burns, 2004 U.S. App. LEXIS 18190 (6th Cir. Aug. 24, 2004)

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 7 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

<u>Other text</u>	<u>No. of Defendant Cases</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
Court ruled this case was not implicated by Blakely because issue was one of law and not fact.	1	Burrell, Brian Antonio	U.S. v. Burrell, 2004 U.S. Dist. LEXIS 12395 (W.D. Va. July 6, 2004)
Pre-Blakely sentencing; in evaluating defendant's Apprendi claim, court assumed arguendo Blakely was applicable and retroactive to habeas corpus claims, but dismissed claim as meritless.	1	Burton, Marco	U.S. v. Burton, 2004 U.S. Dist. LEXIS 15417 (E.D. Pa. July 22, 2004)
Case does not require the court to decide whether Blakely applies to the guidelines. See court procedure section.	1	Campbell, Bevil	U.S. v. Campbell, 2004 U.S. App. LEXIS 18037 (1st Cir. August 25, 2004)
Circuit Court vacated sentence and remanded for reconsideration in light of Ameline & Blakely.	1	Castro, Juan Benito	U.S. v. Castro, 2004 U.S. App. LEXIS 16790 (9th Cir. Aug. 13, 2004)
Court held case mandate until Supreme Court decides Booker and Fanfan.	1	Chen, Xiang	U.S. v. Chen, 2004 U.S. App. LEXIS 16628 (2d Cir. Aug. 12, 2004)
Court used guidelines, but because defendant did not raise an objection in the district court during sentencing, the court reviewed the sentence for plain error.	1	Chetty, Kesavalu	U.S. v. Chetty, 2004 U.S. App. LEXIS 17935 (9th Cir. Aug. 23, 2004)
Court requested additional briefing and oral argument.	1	Cianci, Vincent A. Jr.	U.S. v. Cianci, 2004 U.S. App. LEXIS 16421 (1st Cir. Aug. 10, 2004)
Court used guidelines to sentence case, ruling Blakely does not apply to collateral review (28 USC 2255 motions)	1	Concepcion, Manuel	U.S. v. Concepcion, 2004 U.S. Dist. LEXIS 16809 (E.D.N.Y. Aug. 25, 2004)
Court said even if Blakely applies to the guidelines, Blakely is inapplicable to this case; def. pled guilty to the elements of the offense that are a prerequisite to the mand. min. sentence.	1	Coplin, Jeffrey	U.S. v. Coplin, 2004 U.S. App. LEXIS 16580 (3d Cir. Aug. 9, 2004)
Court upheld a pre-Blakely sentence in an illegal reentry case, which was enhanced because defendant had been convicted of an aggravated felony.	1	Cordoza-Estrada, Silverio	U.S. v. Cordoza-Estrada, 2004 WL 2179594 (1st Cir. Sept. 29, 2004)
Court did not consider the impact of Blakely on the guidelines because the defendant admitted to the facts	1	Cortes, Walter	U.S. v. Cortes, 2004 U.S. App. LEXIS 16784 (9th Cir. Aug. 13,

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 8 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

<u>Other text</u>	<u>No. of Defendant Cases</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
needed for the enhancements.			2004)
Court did not express a view as to the constitutionality of the guidelines.	1	Cropper, Emmanuel	U.S. v. Cropper, 2004 U.S. Dist. LEXIS 21949 (E.D. Pa. Nov. 2, 2004)
Pre-sentencing decision; magistrate recommended the court deny the defendant's motion to strike the sentencing allegations from the indictment pursuant to the current law in the circuit (Booker).	1	Cross, Jerome K.	U.S. v. Cross, 2004 WL 2222299 (W.D. Wis. Oct. 1, 2004)
Pre-Blakely sentencing; ct said rule of procedure bars defendant from raising Blakely issues when he did not raise them initially.	1	Curtis, Garland George	U.S. v. Curtis, 380 F.3d 1308 (11th Cir. 2004)
Court used guidelines to sentence case, defendant admitted to facts and waived right to jury trial.	1	Davis, Kim	U.S. v. Davis, 2004 U.S. Dist. LEXIS 17099 (N.D. Ill. Aug. 25, 2004)
Pre-Blakely sentencing; court denied defendant's application seeking authorization to file a successive motion to vacate sentence under 28 USC 2255.	1	Dean, Will C.	U.S. v. Dean, 375 F.3d 1287 (11th Cir. 2004)
Pre-Blakely sentencing; def. claimed ineffective assistance b/c his lawyer did not raise Blakely issue. Counsel raised Apprendi issue and defendant failed to pursue it in his pro se appeal; denied.	1	DiGregorio, Dominic	U.S. v. DeGregorio, 2004 U.S. Dist. LEXIS 17429 (E.D. Pa. Aug. 12, 2004)
Parties agree that no Blakely related problems are likely to arise in this case.	1	Dickerson, Robin	U.S. v. Dickerson, 2004 U.S. App. LEXIS 17986 (3d Cir. Aug. 24, 2004)
Court upheld the use of the guidelines, but stated the Circuit has not resolved the issue of whether Blakely applies to the guidelines.	1	Duncan, Marco D.	U.S. v. Duncan, 2004 U.S. App. LEXIS 17250 (11th Cir. Aug. 18, 2004)
Court imposed alternative sentencing using the guidelines as advisory in the event Blakely renders the guidelines unconstitutional.	1	Emmenegger, Daniel	U.S. v. Emmenegger, 329 F. Supp. 2d 416 (S.D.N.Y. 2004)
Court made no determination concerning Blakely's impact on the sentencing guidelines.	1	Figuroa, Mario Cacho	U.S. v. Figuroa, 2004 U.S. App. LEXIS 16062 (9th Cir. Aug. 2, 2004)

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 9 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

<u>Other text</u>	<u>No. of Defendant Cases</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
Court used guidelines to sentence case, ruling Congress's intent was clear that behavior involving child pornography will not be tolerated.	1	Forrest, Ronald C.	U.S. v. Forrest, Pacer Docket Report No. 8:03-cr-00458 (Md. Aug. 18, 2004)
Pre-Blakely sentencing; court analyzed Blakely claims relating to criminal history and enhancements under a plain error review standard.	1	Fraser, Gregory	U.S. v. Fraser, 2004 WL 2537410 (5th Cir. Nov. 10, 2004)
Pre-Blakely sentencing; habeas corpus case where sentencing court had applied the guidelines and this court found Blakely did not apply to the guidelines, per U.S. v. Pineiro.	1	Garland, Gene Irving	U.S. v. Garland, 2004 WL 1672214 (N.D. Tex. July 26, 2004)
Court used the guidelines to sentence the case, ruling that the Blakely/Apprendi reasoning did not apply to safety valve provisions because they were decreasing a sentence and prior convictions.	1	Giluardo-Parra, Aguilar	U.S. v. Giluardo-Parra, 2004 U.S. Dist. LEXIS 21133 (D. Utah Oct. 20, 2004).
Court put the parties on notice that it would sentence the Defendant "solely on the basis of the facts admitted by the defendant" during his guilty plea.	1	Gonzalez, Juan	U.S. v. Gonzalez, 2004 U.S. Dist. LEXIS 11760 (S.D.N.Y. June 25, 2004)
Pre-sentencing decision; court did not use the guidelines.	1	Gotti, Peter	U.S. v. Gotti, 2004 U.S. Dist. LEXIS 21540 (S.D.N.Y. Oct. 26, 2004)
Court used guidelines but not Chap 2 or 3 enhancements; guidelines can be applied when there is no additional fact finding that increases defendant's sentence beyond the range dictated by the jury.	1	Grant, Sylvester	U.S. v. Grant, 329 F. Supp. 2d 1305 (M.D. Fla. 2004)
Court used the guidelines only in that the enhancement in question was an adjustment of the base offense level rather than an element of a separate uncharged offense.	1	Hankins, Frank Daniel	U.S. v. Hankins, 328 F. Supp. 2d 1225 (D. Mont. 2004)
Court used the guidelines as advisory; b/c the plea agreement was drafted before Blakely, court accepted the plea under the guidelines even though it declared the guidelines wholly unconstitutional.	1	Harris, Nicole	U. S. v. Harris, 325 F. Supp. 2d 562 (W.D. Pa. 2004)

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 10 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

<u>Other text</u>	<u>No. of Defendant Cases</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
Court used guidelines; assumed that Blakely applied to the federal sentencing guidelines and convened a sentencing jury so that the matter could be resolved.	1	Harris, William Oscar	U. S. v. Harris, 2004 U.S. Dist. LEXIS 16239 (D.N.J. Aug. 18, 2004)
Court used guidelines to sentence case, ruling defendant cannot file a Blakely claim when it was not raised in his initial brief.	1	Hembree, Gregory Wade	U.S. v. Hembree, 2004 U.S. App. LEXIS 17894 (11th Cir. Aug. 23, 2004)
Court used guidelines to sentence case, using its discretion to decline hearing the defendant's Blakely claim. (The Court exercised its discretion to hear the claim in U.S. v. Ameline.)	1	Henry, Bryan Joseph	U.S. v. Henry, 2004 U.S. App. LEXIS 18578 (9th Cir. Sept. 1, 2004)
Pre-sentencing decision; court dismissed defendant's constitutional challenge to indictment b/c of non-delegation doctrine and found the guidelines still apply until Supreme Court states otherwise.	1	Jamison, Shawndale	U.S. v. Jamison, 2004 WL 2385003 (W.D. Wis. Oct. 21, 2004)
Pre-sentencing decision; court granted defendant's motion to strike surplusage from the Third Superceding Indictment.	1	Jardine, Bruce	U.S. v. Jardine, 2004 U.S. Dist. LEXIS 20414 (E.D. Pa. Oct. 8, 2004)
Court stated it would defer disposition on sentencing claims until after Supreme Court resolves its Blakely-question for certification in U.S. v. Penaranda.	1	Jasper, Barbara Renor	U.S. v. Jasper, 2004 U.S. App. LEXIS 15543 (2d Cir. July 7, 2004)
Court used the guidelines to sentence case, incorporating Blakely into a sentencing procedure to ensure protection of a defendant's Sixth Amendment rights.	1	Johns, Brett	U.S. v. Johns, 2004 U.S. Dist. LEXIS 18479 (M.D. Pa., Sept. 15, 2004)
Court used the guidelines to sentence, ruling that Blakely has not sounded the "death knell" for the guidelines, but did not find any enhancements applicable based on the facts of the case.	1	Khan, Ali Sher	U.S. v. Khan, 325 F. Supp. 2d 218 (E.D.N.Y. 2004)
Court held guidelines unconstitutional; used the ranges specified in the statute to sentence the defendant.	1	Khoury, Rani	U.S. v. Khoury, Pacer Docket Report No. 6:04-cr-24-Orl-31DAB (M.D. Fla. July 21, 2004)

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 11 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

<u>Other text</u>	<u>No. of Defendant Cases</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
Court remanded the case to the district court for further proceedings on the application of Blakely to the guidelines	1	Kingsbury, Randall S.	U.S. v. Kingsbury, 2004 U.S. App. LEXIS 17613 (9th Cir. Aug. 18, 2004)
Court used guidelines; recommends cts announce additional sentence pursuant to 3553(a), treating guidelines as advisory only; Blakely does not invalidate guidelines which do not violate 6th Amendment.	1	Koch, Robert	U.S. v. Koch, 2004 U.S. App. LEXIS 18138 (6th Cir. Aug. 26, 2004)
Court imposed an alternative sentence that would apply if the guidelines are subsequently determined to be unconstitutional as a whole.	1	LaFlora, Marico M.	U.S. v. LaFlora, 2004 WL 1851533 (D. Kan. July 16, 2004)
Pre-Blakely sentencing; court granted motion for release pending appeal, in a case involving a challenge to the defendant's enhanced sentence.	1	LaGiglio, Bonnie	U.S. v. LaGiglio, 2004 U.S. Dist. LEXIS 14611 (N.D. Ill. July 29, 2004)
Pre-Blakely sentencing; Circuit court held mandate in abeyance until further notice to await resolution by it or the Supreme Court on the impact of Blakely.	1	Lamere, Steven Matthew	U.S. v. Lamere, 2004 U.S. App. LEXIS 15874 (D. Mont. July 30, 2004)
Pre-sentencing decision; court found Blakely does not apply to indictments. Judge stated he would likely use the pre-guideline method of sentencing, using the guidelines as advisory.	1	Lamoreaux, Christopher	U.S. v. Lamoreaux, 2004 U.S. Dist. LEXIS 13225 (W.D. Mo. July 7, 2004)
A sentencing jury trial will be held on August 9, 2004, to decide whether the enhancement factors have been proven beyond a reasonable doubt. Parties stipulated to enhancements.	1	Landgarten, Barry	U.S. v. Landgarten, 325 F. Supp. 2d 234 (E.D.N.Y. 2004)
Court stated that the guidelines are constitutional until the Supreme Court says they are not.	1	Lauersen, Niels	U.S. v. Lauersen, 2004 U.S. Dist. LEXIS 14491 (S.D.N.Y. July 29, 2004)
Court held guidelines unconstitutional, used as advisory; no Chapter 3 adjustments at issue, but court stated it would make no enhancement that was not already agreed to by admission of the defendant.	1	Leach, Frederick	U. S. v. Leach, 325 F. Supp. 2d 557 (E.D. Pa. 2004)
Court used guidelines; guidelines constitutional, but a judge as sole factfinder must apply the reasonable	1	Leach, Sherma Lee	U.S. v. Leach, Pacer Docket Report: 4:03cr00114 (N.D. Ok.

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 12 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

<u>Other text</u>	<u>No. of Defendant Cases</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
doubt standard.			Aug. 13, 2004)
Pre-Blakely sentencing; court denied defendant's petition for rehearing, which raised Blakely challenge to sentence for the first time on appeal.	1	Levy, Raphael R.	U.S. v. Levy, 379 F.3d 1241 (11th Cir. 2004)
Court upheld enhancement of pre-Blakely sentence under 2K2.1(c)(1)(A).	1	Lewis, Daniel Carson	U.S. v. Lewis, 2004 WL 2203945 (9th Cir. Sept. 28, 2004)
Court used guidelines to sentence case, ruling that because Blakely does not apply to prior convictions, it does not apply to the length of sentence imposed with 2L1.2's 16 level enhancement.	1	Leyva-Quintero, Renan Lorenzo	U.S. v. Leyva-Quintero, 2004 U.S. Dist. LEXIS 18000 (D. Kan. Aug. 4, 2004)
Pre-Blakely sentencing; court found application of 2K2.1 and 4A1.1 did not violate Booker.	1	Lindsey, Warren	U.S. v. Lindsey, 2004 WL 2278753 (7th Cir. Sept. 28, 2004)
Court used the guidelines and deemed the appellant's Blakely waived because he offered no explanation on why Blakely would apply.	1	Lopez, Carlos	U.S. v. Lopez, 2004 U.S. App. LEXIS 17474 (1st Cir. Aug. 19, 2004)
Court used guidelines to sentence case, ruling Blakely does not apply to prior convictions; prior convictions do not require a jury finding.	1	Losoya-Mancias, Arnaldo	U.S. v. Losoya-Mancias, 2004 U.S. Dist. LEXIS 17069 (D.N.D. Aug. 25, 2004)
Pre-Blakely sentencing; pursuant to U.S. v. Ameline, the court remanded the case for resentencing; indictment did not indicate amount of drugs and enhancement under 3C1.1 not proper.	1	Magana, Jose Gonzalez	U.S. v. Magana, 2004 U.S. App. LEXIS 15759 (9th Cir. July 29, 2004)
Pre-Blakely sentencing; court did not decide defendant's Blakely-based claim and stated it would address that challenge in a separate opinion or order to be issued at a future date.	1	Marmorato, Antonio	U.S. v. Marmorato, 2004 U.S. App. LEXIS 16521 (2d Cir. Aug. 10, 2004)
Pre-Blakely sentencing; circuit court affirmed sentence imposed by the district court, which included an obstruction of justice adjustment and a determination that defendant was a career offender.	1	Marseille, Emmanuel	U.S. v. Marseille, 377 F.3d 1249 (11th Cir. 2004)
Court held guidelines unconstitutional; rejected	1	Medas, Karl Neil	U.S. v. Medas, 2004 U.S. Dist. LEXIS

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 13 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

<u>Other text</u>	<u>No. of Defendant Cases</u>	<u>Citation to Source(s)</u>
government's requested Supplemental Verdict Sheet submitted pursuant to Blakely based on the constitutional implications of Blakely.		12135 (E.D.N.Y. July 1, 2004)
Court upheld the use of the firearm enhancement under 2D1.1 in a pre-Blakely sentencing; said trial court did not clearly err in so finding, even though defendant was acquitted of two gun counts.	1	Mendoza-Mesa, Ramon U.S. v. Mendoza-Mesa, 2004 WL 2255084 (8th Cir. Oct. 8, 2004)
Court applied guidelines but not Chap. 2 or 3 enhancements. Note: This is different than the circuit's decision in Booker.	1	Messino, Christopher B. U.S. v. Messino, 2004 U.S. App. LEXIS 18343 (7th Cir. Aug. 31, 2004)
Constitutionality of the guidelines were not at issue in this case.	1	Mickle, Allen Steven U.S. v. Mickle, 2004 WL 2302865 (D. Minn. Oct. 12, 2004)
Court did not reach the sentencing phase or application of the guidelines.	1	Mikutowicz, John U.S. v. Mikutowicz, 2004 U.S. Dist. LEXIS 12516 (D. Mass. July 7, 2004)
Court applied the guidelines; did not make a decision on the effects of Blakely on the guidelines.	1	Miller, Kevin U.S. v. Miller, 2004 WL 1946381 (S.D.N.Y. Aug. 31, 2004)
Court severed the defendant's Blakely claims from his other sentencing and conviction claims and requested supplemental briefs on the Blakely issues.	1	Minter, Bruce Edward U.S. v. Minter, 2004 U.S. App. LEXIS 15878 (9th Cir. July 20, 2004)
Court used guidelines because Blakely does not apply in this case because the fact in question is a fact of prior conviction.	1	Mohr, Michael U.S. v. Mohr, 382 F.3d 857 (8th Cir. 2004)
Court held that Blakely's holding rendered the guidelines unconstitutional, and thus they can be applied in an advisory fashion only.	1	Montgomery, Tiffany Harris U.S. v. Montgomery 2004 U.S. App. LEXIS 14384 (6th Cir. July 14, 2004)
Pre-Blakely sentencing; on appeal defendant claimed career offender designation violation of Blakely. In footnote court stated Blakely only covers factual determinations and this was a matter of law.	1	Moorer, Lavern US v. Moorer, 383 F.3d 164 (3d Cir. 2004)
Court did not reach a conclusion on the applicability of Blakely on the guidelines, but did ask for additional briefs to consider the	1	Morales, Mateo T. U.S. v. Morales, 2004 U.S. Dist. LEXIS 14566 (D. Minn. July 30, 2004)

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 14 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

<u>Other text</u>	<u>No. of</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
	<u>Cases</u>		
matter.			
Court made no ruling on the impact of Blakely, but remanded the case for a determination consistent with Blakely.	1	Morgan, Darrick	U.S. v. Morgan, 376 F.3d 1002 (9th Cir. 2004)
Pre-Blakely sentencing; court ruled Blakely issue was limited to plain error review because defendant did not raise it at trial, in initial brief, or in oral arguments.	1	Morgan, Michael	U.S. v. Morgan, 2004 U.S. App. LEXIS 18739 (1st Cir. Sept. 2, 2004)
Court held guidelines unconstitutional; will sentence the defendants according to the pre-1984 system, but court stated it will be guided by the guidelines' provisions.	1	Mueffleman, Steven D.	U.S. v. Mueffleman, 327 F. Supp. 2d 79 (D. Mass. 2004)
Court did not reach merits of the guidelines, rather, it determined that the govt. could not supplement an indictment with guideline-like charges if it violated the defendant's due process rights.	1	Mutchler, Jonathon Duwayne	U.S. v. Mutchler, 2004 U.S. Dist. LEXIS 18053 (S.D. Iowa Sept. 9, 2004)
Court remanded this case for sentencing consistent with United States v. Booker, 2004 U.S. App. LEXIS 14223 (7th Cir. July 9, 2004).	1	Ohlinger, John D.	U.S. v. Ohlinger, 377 F.3d 785 (7th Cir. 2004)
There was no discussion of the relevant facts of the case nor any regarding application of the guidelines. The court merely discussed the constitutionality of the guidelines.	1	Olivera-Hernandez, Transito Jacinto	U.S. v. Olivera-Hernandez, 2004 U.S. Dist. LEXIS 14462 (D. Utah July 12, 2004)
Court held that Blakely did not apply to the federal guidelines, but announced alternative sentences in the event Blakely is determined to have some impact on the guidelines.	1	Paris, Martin Lee	U.S. v. Paris, 2004 WL 1846128 (D. Kan. July 27, 2004)
Court held guidelines unconstitutional; used the ranges stated in the statute to sentence the defendant.	1	Parson, Charles Matthew	U.S. v. Parson, Pacer Docket Report No. 6:03-cr-204-Orl-31DAB (M.D. Fla. July 22, 2004)
Although this was a habeas case and the court did not sentence the case, the magistrate judge stated in a footnote that pursuant to Apprendi, Blakely is not applied retroactively.	1	Patterson, Julius Earl	U.S. v. Patterson, 2004 U.S. Dist. LEXIS 12402 (E.D. Mich. June 25, 2004)

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 15 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

<u>Other text</u>	<u>No. of Defendant Cases</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
Court ruled that the defendant admitted to the facts necessary to establish the adjustments. In dicta the court stated that the guidelines were unconstitutional, not severable and advisory.	1	Paulus, Joseph	U.S. v. Paulus, 2004 U.S. Dist. LEXIS 16427 (E.D. Wis. Aug. 6, 2004)
Second Circuit, en banc, certified three questions to the Supreme Court, relating to the applicability of Blakely to the federal sentencing guidelines.	1	Penaranda, Hector	U.S. v. Penaranda, 375 F.3d 238 (2d Cir. 2004)
The case is still in the pre-trial phase, so the court has not made an explicit ruling on the guidelines. However, by inference, the judge appears to adopt the holding in Fanfan that Blakely applies.	1	Perez, Ramon	U.S. v. Perez, 2004 U.S. Dist. LEXIS 20133 (D. Me. Oct. 5, 2004)
Court held that Blakely does not apply to the federal guidelines and upheld sentence imposed by district court which involved factual findings.	1	Pineiro, Francisco D.	U.S. v. Pineiro, 377 F.3d 464 (5th Cir. 2004)
Court affirmed a pre-Blakely sentence based upon a career offender determination.	1	Pittman, Maurice C.	U.S. v. Pittman, 2004 WL 2567901 (7th Cir. 2004)
Court made no ruling on the merits of Blakely; held that defendant's claim was premature because if Blakely does apply to the sentencing guidelines, it applies only to cases on direct appeal.	1	Raines, Ronnie	U.S. v. Raines, 2004 U.S. Dist. LEXIS 15052 (W.D. Wis. Aug. 2, 2004)
Def entered plea pre-Blakely, filed motion to withdraw plea; court is bound by Booker, but said although Blakely may be retroactive, in this case, valid plea agreement and waiver cures guideline issue	1	Reyes-Acosta, Seferino Javier Benjamin	U.S. v. Reyes-Acosta, 2004 U.S. Dist. LEXIS 17635 (N.D. Ill. September 2, 2004)
Court did not make any suggestions as to the constitutionality of the guidelines.	1	Roberts, Ernest	http://sentencing.typed.com/sentencing_law_and_policy/2004/07/district_court_.html
Plea agreement in which defendant admitted facts to be used at sentencing was entered into before Blakely; court found Blakely and Booker do not apply in this case.	1	Rodriguez-Rodriguez, Baldemar	U.S. v. Rodriguez-Rodriguez, 2004 U.S. Dist. LEXIS 18828 (N.D. Ill. Sept. 17, 2004)

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 16 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

<u>Other text</u>	<u>No. of Defendant Cases</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
Court made no ruling on the constitutionality of the guidelines, held that the defendant can waive his constitutional protections under Blakely.	1	Roper, Chad A.	U.S. v. Roper, 2004 U.S. Dist. LEXIS 20957 (D. Me. Oct. 19, 2004).
Court used guidelines; Blakely does not apply in collateral reviews.	1	Rosario-Dominguez, Elvir	U.S. v. Rosario-Dominguez, 2004 U.S. Dist. LEXIS 15995 (S.D.N.Y. Aug. 16, 2004)
Court ruled that Blakely does not apply in this case, guidelines used to sentence case.	1	Sanders, Robert Allen	U.S. v. Sanders, 377 F.3d 845 (8th Cir. 2004)
Court made no determination on the applicability of Blakely to the federal sentencing guidelines.	1	Segal, Michael	U.S. v. Segal, 2004 U.S. Dist. LEXIS 20115 (N.D. Ill. Oct. 6, 2004)
Court used guidelines, ruling Blakely does not apply in this case because it is a collateral appeal which requires a determination by the Supreme Court that Blakely applies to the federal system.	1	Simpson, William S.	U.S. v. Simpson, 376 F.3d 679 (7th Cir. 2004)
Court did not apply guidelines; followed the reasoning of Booker (holding the guidelines unconstitutional) and remanded for resentencing.	1	Singletary, Jahneria P.	U.S. v. Singletary, 379 F.3d 425 (7th Cir. 2004)
Court held guidelines unconstitutional; will determine sentences based on the statutory provisions and will give consideration to the guidelines when formulating the sentence.	1	Sisson, Carl	U.S. v. Sisson, 326 F. Supp. 2d 203 (D. Mass. 2004)
Court applied the guidelines in this case and left the Blakely issue for the District Court to decide upon remand for resentencing on a separate issue.	1	Smith, Shirley	U.S. v. Smith, 2004 U.S. App. LEXIS 15934 (4th Cir. Aug. 3, 2004)
Circuit court reversed order vacating 20 yr minimum enhanced sentence (and imposing 60 month sentence) on Apprendi grounds, and remanded with directions that original 20 year sentence be re-imposed.	1	Spero, Donald Jerome	U.S. v. Spero, 375 F.3d 1285 (11th Cir. 2004)
Court applied guidelines; dismissed the issue unless the Supreme Court rules that Blakely applies to the	1	Stafford, Paul	U.S. v. Stafford, 2004 U.S. Dist. LEXIS 13915 (W.D. Wis. July

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 17 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

<u>Other text</u>	<u>No. of Defendant Cases</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
federal system and applies retroactively.			19, 2004)
Blakely does not apply in this case, court used the guidelines to sentence this case.	1	Stearns, Jeffery D.	U.S. v. Stearns, 2004 WL 2426261 (1st Cir. Nov. 1, 2004)
Court used guidelines; Judge noted that Blakely held that the federal sentencing guidelines were not at issue in the case, and this case involved no enhancements.	1	Stewart, Martha	U.S. v. Stewart, Pacer document #: 1:03-cr-00717-MGC-ALL (S.D.N.Y. July 14, 2004)
Courts states the guidelines may be unconstitutional, but because the defendant pled guilty to the charges in the indictment, the court does not reach the guideline issue.	1	Swan, Adrian L.	U.S. v. Swan, 327 F. Supp. 2d 1068 (D. Neb. 2004)
Constitutionality of the guidelines was not at issue in this case; pre-trial Motion to Strike Surplusage from indictment.	1	Taitano, Crispin A.	U.S. v. Taitano, 2004 WL 2126853 (D.N. Mari. I. Sept. 24, 2004)
Court used the guidelines, the rule of Blakely does not apply to partial affirmative defenses in the statute of conviction.	1	Tarallo, Aldo	U.S. v. Tarallo, 2004 U.S. App. LEXIS 17724 (9th Cir. Aug. 20, 2004)
Court held that Blakely did not overrule Almendarez-Torres, therefore the fact of a prior conviction was an appropriate consideration in assessing the defendant's criminal history.	1	Tellez-Boizo, Sergio	U.S. v. Tellez-Boizo, 2004 WL 2486838 (7th Cir. Oct. 25, 2004)
Court used guidelines to sentence case, ruling that the Blakely ruling does not apply to this case.	1	Thompson, Lonnie Jay	U.S. v. Thompson, 2004 U.S. Dist. LEXIS 12582 (D. Utah July 28, 2004)
Court made no ruling on the guidelines and moved all sentencing hearings to a date after October 15, 2003.	1	Thompson, Marcellus Jabbar	U.S. v. Thompson, 2004 U.S. Dist. LEXIS 13213 (S.D.W.V. July 14, 2004)
Pre-Blakely sentencing; on appeal def. claimed Blakely violation re: fact of prior conviction. Court held whether prior conviction is a crime of violence is a matter of law, Blakely not implicated.	1	Trala, John Walter	US v. Trala, 2004 WL 2382012 (3d Cir. Oct. 26, 2004)
Pre-sentencing decision; ct denied motion to dismiss superceding indictment with additional charges, filed pursuant to Blakely, finding	1	Triumph, Patrick	U.S. v. Triumph, 2004 U.S. Dist. LEXIS 16846 (D. Conn. Aug. 24, 2004)

Frequency Report

Were the Guidelines used to sentence this case?

Entry Date: 01-AUG-04 to 30-NOV-04

Page 18 of 18

Rundate: NOV-30-04 03:56 PM

No. of cases

<u>Other text</u>	<u>No. of Defendant Cases</u>	<u>Citation to Source(s)</u>
did not create greater threat of punishment than 1st indictment.		
Pre-sentencing decision; court appears to have accepted a superseding indictment that included additional facts pursuant to Blakely.	1	Vitillo, John
Pre-sentencing decision; court made no ruling on constitutionality of guidelines.	1	Williams, Joseph E.
Court used guidelines; Defendant waived her Blakely rights and was sentenced under the guidelines.	1	Willis, Quaneka
Court bifurcated trial in light of Blakely but made no conclusion as to the constitutionality of the guidelines.	1	Wirtz, Raymond H.
Pre-Blakely sentencing; court stated in a FN that Blakely does not affect restitution; restitution does not exceed any prescribed statutory maximum.	1	Wooten, Charles
Court used the guidelines, held that Blakely did not render all the guidelines unconstitutional; can sever those guidelines that are unconstitutional from the rest.	1	Zompa, Nicholas

Entry date: 01-AUG-04 to 30-NOV-04

Rundate: NOV-30-04 03:57 PM

No. of Cases

Judge advised defendant of Blakely during plea colloquy. 4

<u>Defendant</u>	<u>Citation to Source(s)</u>
Grant, Sylvester	U.S. v. Grant, 329 F. Supp. 2d 1305 (M.D. Fla. 2004)
Leach, Sherma Lee	U.S. v. Leach, Pacer Docket Report: 4:03cr00114 (N.D. Ok. Aug. 13, 2004)
Roper, Chad A.	U.S. v. Roper, 2004 U.S. Dist. LEXIS 20957 (D. Me. Oct. 19, 2004).
Watson, Dwight W.	U.S. v. Watson, 2004 U.S. App. LEXIS 13780 (D.C. Cir. July 1, 2004)

Parties stipulated to sentencing issues. 12

<u>Defendant</u>	<u>Citation to Source(s)</u>
Bahena, Ruben Roman	U.S. v. Bhaena, 2004 U.S. App. LEXIS 14300 (7th Cir. July 8, 2004)
Black, Kevin	U.S. v. Black, 2004 U.S. Dist. LEXIS 17895 (D. Del. Sept. 8, 2004)
Burton, Marco	U.S. v. Burton, 2004 U.S. Dist. LEXIS 15417 (E.D. Pa. July 22, 2004)
Campbell, Bevil	U.S. v. Campbell, 2004 U.S. App. LEXIS 18037 (1st Cir. August 25, 2004)
Cortes, Walter	U.S. v. Cortes, 2004 U.S. App. LEXIS 16784 (9th Cir. Aug. 13, 2004)
Davis, Kim	U.S. v. Davis, 2004 U.S. Dist. LEXIS 17099 (N.D. Ill. Aug. 25, 2004)
Fotiades-Alexander, Speroula	U.S. v. Fotiades-Alexander, 2004 WL 1845552 (E.D. Pa. Aug. 12, 2004)
Harris, Nicole	U. S. v. Harris, 325 F. Supp. 2d 562 (W.D. Pa. 2004)
Leach, Frederick	U. S. v. Leach, 325 F. Supp. 2d 557 (E.D. Pa. 2004)
Roper, Chad A.	U.S. v. Roper, 2004 U.S. Dist. LEXIS 20957 (D. Me. Oct. 19, 2004).
Swan, Adrian L.	U.S. v. Swan, 327 F. Supp. 2d 1068 (D. Neb. 2004)
Terrell, Chuck	U.S. v. Terrell, 2004 U.S. Dist. LEXIS 13781 (D. Neb. July 22, 2004)

Defendant waived rights to jury determinations of sentencing guidelines issues. 9

<u>Defendant</u>	<u>Citation to Source(S)</u>
Davis, Kim	U.S. v. Davis, 2004 U.S. Dist. LEXIS 17099 (N.D. Ill. Aug. 25, 2004)
Fotiades-Alexander, Speroula	U.S. v. Fotiades-Alexander, 2004 WL 1845552 (E.D. Pa. Aug. 12, 2004)
Grant, Sylvester	U.S. v. Grant, 329 F. Supp. 2d 1305 (M.D. Fla. 2004)
Johns, Brett	U.S. v. Johns, 2004 U.S. Dist. LEXIS 18479 (M.D. Pa., Sept. 15, 2004)
Leach, Sherma Lee	U.S. v. Leach, Pacer Docket Report: 4:03cr00114 (N.D. Ok. Aug. 13, 2004)

Entry date: 01-AUG-04 to 30-NOV-04

Rundate: NOV-30-04 03:57 PM

<u>Defendant</u>	<u>Citation to Source(S)</u>
Lopez, Carlos	U.S. v. Lopez, 2004 U.S. App. LEXIS 17474 (1st Cir. Aug. 19, 2004)
Noe, Rolan Dale	U.S. v. Noe, 2004 U.S. Dist. LEXIS 15511 (N.D. Tex. Aug. 6, 2004)
Roper, Chad A.	U.S. v. Roper, 2004 U.S. Dist. LEXIS 20957 (D. Me. Oct. 19, 2004).
Willis, Quaneka	U.S. v. Willis, 327 F. Supp. 2d 954 (E.D. Wis. 2004)

Court empaneled sentencing jury. 2

<u>Defendant</u>	<u>Citation to Source(s)</u>
Harris, William Oscar	U. S. v. Harris, 2004 U.S. Dist. LEXIS 16239 (D.N.J. Aug. 18, 2004)
Johns, Brett	U.S. v. Johns, 2004 U.S. Dist. LEXIS 18479 (M.D. Pa., Sept. 15, 2004)

Court bifurcated trial into guilt and penalty phases. 5

<u>Defendant</u>	<u>Citation to Source(s)</u>
Banton, Elvis O.	U.S. v. Banton, 2004 U.S. Dist. LEXIS 20401 (E.D.N.Y. Oct. 12, 2004)
Cropper, Emmanuel	U.S. v. Cropper, 2004 U.S. Dist. LEXIS 21949 (E.D. Pa. Nov. 2, 2004)
Harris, William Oscar	U. S. v. Harris, 2004 U.S. Dist. LEXIS 16239 (D.N.J. Aug. 18, 2004)
Johns, Brett	U.S. v. Johns, 2004 U.S. Dist. LEXIS 18479 (M.D. Pa., Sept. 15, 2004)
Wirtz, Raymond H.	U.S. v. Wirtz, 2004 WL 2271745 (D. Minn. Sept. 25, 2004)

Court submitted special verdict form to jury. 1

<u>Defendant</u>	<u>Citation to Source(s)</u>
Atiyeh, George	U.S. v. Atiyeh, 2004 U.S. Dist. LEXIS 16019 (E.D. Pa. Aug. 4, 2004)

No changes. 118

<u>Defendant</u>	<u>Citation to Source(s)</u>
Ayeni, Terry	U.S. v. Ayeni, 2004 U.S. Dist. LEXIS 19970 (S.D.N.Y. Oct. 4, 2004)
Badilla, Sergio Duran	U.S. v. Badilla, 2004 U.S. App. LEXIS 16646 (N.M. Aug. 12, 2004)
Baert, John C.	U.S. v. Baert, 2004 U.S. Dist. LEXIS 17911 (D. Me. Sept. 8, 2004)
Barton, George E.	U.S. v. Barton, 2004 U.S. App. LEXIS 16276 (E.D. Wash. Aug. 4, 2004)
Beatty, Gary Lee	U.S. v. Beatty, 103 Fed. Appx. 785 (4th Cir. 2004)
Benitez-Hernandez, Daniel	U.S. v. Benitez-Hernandez, 2004 U.S. Dist. LEXIS 20937 (D. Neb. Oct. 19, 2004)
Bishop, Christopher	Bishop v. U.S., 2004 U.S. Dist. LEXIS 22543 (S.D.N.Y. Nov. 8, 2004)

Frequency Report
Court Procedure

Entry date: 01-AUG-04 to 30-NOV-04

Rundate: NOV-30-04 03:57 PM

<u>Defendant</u>	<u>Citation to Source(s)</u>
Booth, Michael David	U.S. v. Booth, 2004 WL 2283778 (9th Cir. Oct. 7, 2004)
Burns, Gregory Scott	U.S. v. Burns, 2004 U.S. App. LEXIS 18190 (6th Cir. Aug. 24, 2004)
Burrell, Brian Antonio	U.S. v. Burrell, 2004 U.S. Dist. LEXIS 12395 (W.D. Va. July 6, 2004)
Byrd, Sylvester	U.S. v. Byrd, 2004 U.S. Dist. LEXIS 13519 (W.D. Tex. July 20, 2004)
Campbell, Bevil	U.S. v. Campbell, 2004 U.S. App. LEXIS 18037 (1st Cir. August 25, 2004)
Carter, Philip Wayne	U. S. v. Carter, 2004 U.S. Dist. LEXIS 14433 (C.D. Ill. July 23, 2004)
Chaparro, Margarita	U.S. v. Chaparro, 2004 U.S. Dist. LEXIS 17531 (W.D. Tex. Sept. 1, 2004)
Cianci, Vincent A. Jr.	U.S. v. Cianci, 2004 U.S. App. LEXIS 16421 (1st Cir. Aug. 10, 2004)
Concepcion, Manuel	U.S. v. Concepcion, 2004 U.S. Dist. LEXIS 16809 (E.D.N.Y. Aug. 25, 2004)
Coplin, Jeffrey	U.S. v. Coplin, 2004 U.S. App. LEXIS 16580 (3d Cir. Aug. 9, 2004)
Cordoza-Estrada, Silverio	U.S. v. Cordoza-Estrada, 2004 WL 2179594 (1st Cir. Sept. 29, 2004)
Cortes, Walter	U.S. v. Cortes, 2004 U.S. App. LEXIS 16784 (9th Cir. Aug. 13, 2004)
Cross, Jerome K.	U.S. v. Cross, 2004 WL 2222299 (W.D. Wis. Oct. 1, 2004)
Croxford, Brent	U.S. v. Croxford, 324 F. Supp. 2d 1230 (D. Utah 2004)
Cuellar, Silvestre	U.S. v. Cuellar, 2004 U.S. App. LEXIS 17550 (5th Cir. Aug. 18, 2004)
Curtis, Garland George	U.S. v. Curtis, 380 F.3d 1308 (11th Cir. 2004)
Dean, Will C.	U.S. v. Dean, 375 F.3d 1287 (11th Cir. 2004)
Diaz-Diaz, Jose G.	U.S. v. Diaz-Diaz, 2004 U.S. App. LEXIS 17426 (8th Cir. Aug. 19, 2004)
Dillon, John R.	U.S. v. Dillon, 2004 WL 2252077 (D. Kan. Sept. 28, 2004)
Duncan, Marco D.	U.S. v. Duncan, 2004 U.S. App. LEXIS 17250 (11th Cir. Aug. 18, 2004)
Einstman, Paul G.	U.S. v. Einstman, 325 F. Supp. 2d 373 (S.D.N.Y. 2004)
Falodun, Bright Idada	U.S. v. Falodun, 2004 U.S. Dist. LEXIS 21740 (D. Minn. Oct. 25, 2004)
Flannagan, Boyd	U.S. v. Flannagan, 2004 U.S. Dist. LEXIS 15523 (W.D. Wis. July 26, 2004)
Forrest, Ronald C.	U.S. v. Forrest, Pacer Docket Report No. 8:03-cr-00458 (Md. Aug. 18, 2004)
Fraser, Gregory	U.S. v. Fraser, 2004 WL 2537410 (5th Cir. Nov. 10, 2004)
Garcia, Gildardo	U.S. v. Garcia, 2004 U.S. App. LEXIS 17882 (2d Cir. Aug. 23, 2004)
Garland, Gene Irving	U.S. v. Garland, 2004 WL 1672214 (N.D. Tex. July 26, 2004)
Giddings, Ervin	U.S. v. Giddings, 2004 U.S. App. LEXIS 16756 (5th Cir. Aug. 16, 2004)
Giluardo-Parra, Aguilar	U.S. v. Giluardo-Parra, 2004 U.S. Dist. LEXIS 21133 (D. Utah Oct. 20, 2004).

Frequency Report
Court Procedure

Entry date: 01-AUG-04 to 30-NOV-04

Rundate: NOV-30-04 03:57 PM

<u>Defendant</u>	<u>Citation to Source(s)</u>
Gonzalez, Juan	U.S. v. Gonzalez, 2004 U.S. Dist. LEXIS 11760 (S.D.N.Y. June 25, 2004)
Gotti, Peter	U.S. v. Gotti, 2004 U.S. Dist. LEXIS 21540 (S.D.N.Y. Oct. 26, 2004)
Hammoud, Mohamad Youssef	U.S. v. Hammoud, 2004 WL 2005622 (4th Cir. Sept. 8, 2004)
Hembree, Gregory Wade	U.S. v. Hembree, 2004 U.S. App. LEXIS 17894 (11th Cir. Aug. 23, 2004)
Henry, Bryan Joseph	U.S. v. Henry, 2004 U.S. App. LEXIS 18578 (9th Cir. Sept. 1, 2004)
Jardine, Bruce	U.S. v. Jardine, 2004 U.S. Dist. LEXIS 20414 (E.D. Pa. Oct. 8, 2004)
Jasper, Barbara Renor	U.S. v. Jasper, 2004 U.S. App. LEXIS 15543 (2d Cir. July 7, 2004)
Johnson, Verona L.	U.S. v. Johnson, 2004 U.S. App. LEXIS 17052 (5th Cir. Aug. 17, 2004)
Johnson, William H.	U.S. v. Johnson, Pacer Docket Report No. 6:2004cr00042 (S.D. W. Va. Aug. 13, 2004)
Khan, Ali Sher	U.S. v. Khan, 325 F. Supp. 2d 218 (E.D.N.Y. 2004)
Khoury, Rani	U.S. v. Khoury, Pacer Docket Report No. 6:04-cr-24-Orl-31DAB (M.D. Fla. July 21, 2004)
King, Jaamar Julius	U.S. v. King, 328 F. Supp. 2d 1276 (M.D. Fla. 2004)
LaGiglio, Bonnie	U.S. v. LaGiglio, 2004 U.S. Dist. LEXIS 14611 (N.D. Ill. July 29, 2004)
Lamere, Steven Matthew	U.S. v. Lamere, 2004 U.S. App. LEXIS 15874 (D. Mont. July 30, 2004)
Lamoreaux, Christopher	U.S. v. Lamoreaux, 2004 U.S. Dist. LEXIS 13225 (W.D. Mo. July 7, 2004)
Lauersen, Niels	U.S. v. Lauersen, 2004 U.S. Dist. LEXIS 14491 (S.D.N.Y. July 29, 2004)
Levy, Raphael R.	U.S. v. Levy, 379 F.3d 1241 (11th Cir. 2004)
Lewis, Daniel Carson	U.S. v. Lewis, 2004 WL 2203945 (9th Cir. Sept. 28, 2004)
Lilly, Lisa K.	U.S. v. Lilly, 2004 U.S. Dist. LEXIS 21623 (W.D. Va. Oct. 28, 2004)
Lindsey, Warren	U.S. v. Lindsey, 2004 WL 2278753 (7th Cir. Sept. 28, 2004)
Losoya-Mancias, Arnaldo	U.S. v. Losoya-Mancias, 2004 U.S. Dist. LEXIS 17069 (D.N.D. Aug. 25, 2004)
Lowe, Harry Dewayne	U.S. v. Lowe, 2004 U.S. Dist. LEXIS 15455 (N.D. Ill. Aug. 9, 2004)
Magana, Jose Gonzalez	U.S. v. Magana, 2004 U.S. App. LEXIS 15759 (9th Cir. July 29, 2004)
Marmorato, Antonio	U.S. v. Marmorato, 2004 U.S. App. LEXIS 16521 (2d Cir. Aug. 10, 2004)
Marquez-Gomez, Oscar Luis	U.S. v. Marquez-Gomez, 2004 U.S. App. LEXIS 17551 (5th Cir. Aug. 18, 2004)
Marrero, Erik	U.S. v. Marrero, 325 F. Supp. 2d 453 (S.D.N.Y. 2004)
Marseille, Emmanuel	U.S. v. Marseille, 377 F.3d 1249 (11th Cir. 2004)
McBride, William Charles	U.S. v. McBride, 2004 U.S. Dist. LEXIS 19558 (D. Kan. Sept. 28, 2004)
Medas, Karl Neil	U.S. v. Medas, 2004 U.S. Dist. LEXIS 12135 (E.D.N.Y. July 1,

Entry date: 01-AUG-04 to 30-NOV-04

Rundate: NOV-30-04 03:57 PM

<u>Defendant</u>	<u>Citation to Source(s)</u>
	2004)
Messino, Christopher B.	U.S. v. Messino, 2004 U.S. App. LEXIS 18343 (7th Cir. Aug. 31, 2004)
Mickle, Allen Steven	U.S. v. Mickle, 2004 WL 2302865 (D. Minn. Oct. 12, 2004)
Mikutowicz, John	U.S. v. Mikutowicz, 2004 U.S. Dist. LEXIS 12516 (D. Mass. July 7, 2004)
Mincey, Tyshea	U.S. v. Mincey, 2004 U.S. App. LEXIS 16587 (2d Cir. Aug. 12, 2004)
Mohr, Michael	U.S. v. Mohr, 382 F.3d 857 (8th Cir. 2004)
Mooney, Michael Alan	U.S. v. Mooney, 2004 U.S. App. LEXIS 15301 (8th Cir. July 23, 2004)
Moorer, Lavern	US v. Moorer, 383 F.3d 164 (3d Cir. 2004)
Morales, Mateo T.	U.S. v. Morales, 2004 U.S. Dist. LEXIS 14566 (D. Minn. July 30, 2004)
Morgan, Darrick	U.S. v. Morgan, 376 F.3d 1002 (9th Cir. 2004)
Morgan, Michael	U.S. v. Morgan, 2004 U.S. App. LEXIS 18739 (1st Cir. Sept. 2, 2004)
Morris, Darryl	U.S. v. Morris, 2004 U.S. Dist. LEXIS 17639 (C.D. Ill. September 1, 2004)
Musleh, Borhan Y.	U.S. v. Musleh, 2004 U.S. App. LEXIS 17742 (4th Cir. Aug. 20, 2004)
Ohlinger, John D.	U.S. v. Ohlinger, 377 F.3d 785 (7th Cir. 2004)
Onunwor, Emmanuel	U.S. v. Onunwor, Pacer Docket Report: 1:04-CR-211 (N.D. Ohio Aug. 19, 2004)
Orchard, Robert	Orchard v. U.S., 2004 U.S. Dist. LEXIS 17646 (D. Me. Sept. 2, 2004)
Osamor, Oyenokachikem Charles	U.S. v. Osamor, 2004 U.S. App. LEXIS 17604 (5th Cir. Aug. 19, 2004)
Paris, Martin Lee	U.S. v. Paris, 2004 WL 1846128 (D. Kan. July 27, 2004)
Parson, Charles Matthew	U.S. v. Parson, Pacer Docket Report No. 6:03-cr-204-Orl-31DAB (M.D. Fla. July 22, 2004)
Patterson, Julius Earl	U.S. v. Patterson, 2004 U.S. Dist. LEXIS 12402 (E.D. Mich. June 25, 2004)
Paulus, Joseph	U.S. v. Paulus, 2004 U.S. Dist. LEXIS 16427 (E.D. Wis. Aug. 6, 2004)
Penaranda, Hector	U.S. v. Penaranda, 375 F.3d 238 (2d Cir. 2004)
Pirani, Louis F.	U.S. v. Pirani, 2004 U.S. App. LEXIS 16117 (8th Cir. Aug. 5, 2004)
Pittman, Maurice C.	U.S. v. Pittman, 2004 WL 2567901 (7th Cir. 2004)
Raines, Ronnie	U.S. v. Raines, 2004 U.S. Dist. LEXIS 15052 (W.D. Wis. Aug. 2, 2004)
Raney, Kenneth J.	U.S. v. Raney, 2004 U.S. Dist. LEXIS 17106 (N.D. Ill. Aug. 25, 2004)
Reese, Eric Orlando	U.S. v. Reese, 2004 U.S. App. LEXIS 18605 (11th Cir. Sept. 2, 2004)
Reyes-Acosta, Seferino Javier Benjamin	U.S. v. Reyes-Acosta, 2004 U.S. Dist. LEXIS 17635 (N.D. Ill. September 2, 2004)
Roberts, Ernest	http://sentencing.typepad.com/sentencing_law_and_policy/2004/07/district_court_.html

Frequency Report
Court Procedure

Entry date: 01-AUG-04 to 30-NOV-04

Rundate: NOV-30-04 03:57 PM

<u>Defendant</u>	<u>Citation to Source(s)</u>
Rodriguez-Rodriguez, Baldemar	U.S. v. Rodriguez-Rodriguez, 2004 U.S. Dist. LEXIS 18828 (N.D. Ill. Sept. 17, 2004)
Rosario-Dominguez, Elvir	U.S. v. Rosario-Dominguez, 2004 U.S. Dist. LEXIS 15995 (S.D.N.Y. Aug. 16, 2004)
Sanders, Robert Allen	U.S. v. Sanders, 377 F.3d 845 (8th Cir. 2004)
Scroggins, Donald Craig	U.S. v. Scroggins, 379 F.3d 233 (5th Cir. 2004)
Segal, Michael	U.S. v. Segal, 2004 U.S. Dist. LEXIS 20115 (N.D. Ill. Oct. 6, 2004)
Shamblin, Ronald	U. S. v. Shamblin, 323 F. Supp. 2d 757 (S.D.W.V. 2004).
Shipman, Edwar Venez	U.S. v. Shipman, 2004 U.S. App. LEXIS 17743 (4th Cir. Aug. 20, 2004)
Simpson, William S.	U.S. v. Simpson, 376 F.3d 679 (7th Cir. 2004)
Singletary, Jahneria P.	U.S. v. Singletary, 379 F.3d 425 (7th Cir. 2004)
Smith, Shirley	U.S. v. Smith, 2004 U.S. App. LEXIS 15934 (4th Cir. Aug. 3, 2004)
Stafford, Paul	U.S. v. Stafford, 2004 U.S. Dist. LEXIS 13915 (W.D. Wis. July 19, 2004)
Stapleton, Norman	U.S. v. Stapleton, 2004 U.S. Dist. LEXIS 17630 (N.D. Ill. Aug. 31, 2004)
Stearns, Jeffery D.	U.S. v. Stearns, 2004 WL 2426261 (1st Cir. Nov. 1, 2004)
Stewart, Martha	U.S. v. Stewart, Pacer document #: 1:03-cr-00717-MGC-ALL (S.D.N.Y. July 14, 2004)
Stoltz, James Clarence	U.S. v. Stoltz, 325 F. Supp. 2d 982 (D. Minn. July 19, 2004)
Strawhorn, Jerry	U.S. v. Strawhorn, 2004 U.S. Dist. LEXIS 16284 (N.D. Ill. Aug. 13, 2004)
Taitano, Crispin A.	U.S. v. Taitano, 2004 WL 2126853 (D.N. Mari. I. Sept. 24, 2004)
Tarallo, Aldo	U.S. v. Tarallo, 2004 U.S. App. LEXIS 17724 (9th Cir. Aug. 20, 2004)
Thomas, Frazier	U.S. v. Thomas, 2004 U.S. App. LEXIS 17501 (5th Cir. Aug. 17, 2004)
Tidwell, Samuel	U.S. v. Tidwell, 2004 U.S. Dist. LEXIS 16842 (N.D. Ill. Aug. 24, 2004)
Toro, Frank	U.S. v. Toro, 2004 U.S. Dist. LEXIS 12763 (D. Conn. July 6, 2004)
Trala, John Walter	US v. Trala, 2004 WL 2382012 (3d Cir. Oct. 26, 2004)
Triumph, Patrick	U.S. v. Triumph, 2004 U.S. Dist. LEXIS 16846 (D. Conn. Aug. 24, 2004)
Vitillo, John	U.S. v. Vitillo, 2004 U.S. Dist. LEXIS 22419 (E.D. Pa. Nov. 2, 2004)
Ward, Aishauna	U.S. v. Ward, 377 F.3d 671 (7th Cir. 2004)

Other

45

<u>Other Text</u>	<u>No. of</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
	<u>Cases</u>		
Court returned to indeterminate sentencing for this case, but gave "due	1	Agett, Deborah Katelyn	U.S. v. Agett, 327 F. Supp. 2d 899 (E.D. Tenn. 2004)

Frequency Report
Court Procedure

Entry date: 01-AUG-04 to 30-NOV-04

Rundate: NOV-30-04 03:57 PM

<u>Other Text</u>	<u>No. of</u> <u>Cases</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
regard" to the guideline range in imposing sentence.			
Court remanded to trial court for re-sentencing, and ruled that district court could convene a sentencing jury to try any issues which may be used to increase defendant's sentence.	1	Ameline, Alfred Arnold	U.S. v. Ameline, 376 F.3d 967 (9th Cir. 2004)
Court found parties stipulated to all sentencing issues; defendant was not denied a right to jury trial because he pleaded to all of the relevant factors in determining his sentence.	1	Bahena, Ruben Roman	U.S. v. Bhaena, 2004 U.S. App. LEXIS 14300 (7th Cir. July 8, 2004)
Defendant stipulated to facts necessary to make the enhancement in his plea agreement and subsequent sentencing hearing.	1	Black, Kevin	U.S. v. Black, 2004 U.S. Dist. LEXIS 17895 (D. Del. Sept. 8, 2004)
Remanded for re-sentencing, authorizing trial court to empanel a sentencing jury to determine, under beyond the reasonable doubt standard, any Chapter 2 enhancements or Chapter 3 adjustments.	1	Booker, Freddie J.	U.S. v. Booker, 375 F.3d 508 (W.D. Wis. 2004)
Court denied defendant's argument without prejudice, stating it could be refiled if the Supreme Court announces that Blakely applies to cases on collateral review.	1	Branch, Darrell	U.S. v. Branch, 2004 U.S. Dist. LEXIS 17774 (N.D. Ill. Sept. 3, 2004)
Court accepted the grand jury's superceding indictment which included additional allegations that, if found by the jury beyond a reasonable doubt, would support guideline sentencing enhancements.	1	Brown, Josh	U.S. v. Brown, 2004 WL 2029444 (D. Me. Sept. 10, 2004)
On the defendant's motion, the court struck the "sentencing allegations" from the government's superceding indictment.	1	Brown, Shaun	U.S. v. Brown, 2004 WL 1879949 (N.D. Ill. Aug. 18, 2004)
Defendant raised Apprendi claims and the court applied Blakely even though the	1	Burton, Marco	U.S. v. Burton, 2004 U.S. Dist. LEXIS 15417 (E.D. Pa. July 22,

Entry date: 01-AUG-04 to 30-NOV-04

Rundate: NOV-30-04 03:57 PM

<u>Other Text</u>	<u>No. of</u> <u>Cases</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
parties had not raised the issue.			2004)
Defendant stipulated to a drug quantity that corresponded to the base offense level; the stipulation satisfied the rule of Blakely.	1	Campbell, Bevil	U.S. v. Campbell, 2004 U.S. App. LEXIS 18037 (1st Cir. August 25, 2004)
Vacated and remanded for resentencing for reconsideration in light of Ameline and Blakely.	1	Castro, Juan Benito	U.S. v. Castro, 2004 U.S. App. LEXIS 16790 (9th Cir. Aug. 13, 2004)
Court affirmed conviction issues, held mandate of case pending Supreme Court decision.	1	Chen, Xiang	U.S. v. Chen, 2004 U.S. App. LEXIS 16628 (2d Cir. Aug. 12, 2004)
Because the defendant did not raise an objection during sentence, the court reviewed the sentence for plain error. The defendant admitted to the facts needed for the guideline enhancements.	1	Chetty, Kesavalu	U.S. v. Chetty, 2004 U.S. App. LEXIS 17935 (9th Cir. Aug. 23, 2004)
	1	Cortes, Walter	U.S. v. Cortes, 2004 U.S. App. LEXIS 16784 (9th Cir. Aug. 13, 2004)
Court instructed probation officer to prepare a revised PSR for later sentencing, because no Chapter 2 enhancement was to be applied.	1	Davis, Kelli	U.S. v. Davis, 2004 U.S. Dist. LEXIS 16044 (C.D. Cal. Aug. 13, 2004)
Defendant raised Blakely issue during writ of habeas corpus, court denied Blakely claims.	1	DiGregorio, Dominic	U.S. v. DeGregorio, 2004 U.S. Dist. LEXIS 17429 (E.D. Pa. Aug. 12, 2004)
On remand, the district court may wish to announce an appropriate non-guideline sentence.	1	Dickerson, Robin	U.S. v. Dickerson, 2004 U.S. App. LEXIS 17986 (3d Cir. Aug. 24, 2004)
Court withheld the case's mandate pending the 9th Circuit or Supreme Court's resolution of the impact of Blakely on the guidelines.	1	Figueroa, Mario Cachó	U.S. v. Figueroa, 2004 U.S. App. LEXIS 16062 (9th Cir. Aug. 2, 2004)
First of several cases where the court denies Blakely claim based on Mincey and holds the mandates. Citations to other cases given in the "Describe ruling" box below.	1	Garcia, Gildardo	U.S. v. Garcia, 2004 U.S. App. LEXIS 17882 (2d Cir. Aug. 23, 2004)
On remand for re-sentencing, the court imposed its original	1	Hakley, Gail Marie	U.S. v. Hakley, 2004 U.S. Dist. LEXIS 15784

Frequency Report
Court Procedure

Entry date: 01-AUG-04 to 30-NOV-04

Rundate: NOV-30-04 03:57 PM

<u>Other Text</u>	<u>No. of</u> <u>Cases</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
sentence.			(W.D. Mich. Aug. 13, 2004)
Judge must determine if that which raises the base offense level is an element of a seperate, uncharged offense or a fact being used to increase base offense level, before sentencing.	1	Hankins, Frank Daniel	U.S. v. Hankins, 328 F. Supp. 2d 1225 (D. Mont. 2004)
Court intends to bifurcate the trial into sentencing and penalty phases.	1	Jamison, Shawndale	U.S. v. Jamison, 2004 WL 2385003 (W.D. Wis. Oct. 21, 2004)
Although the defendant in this case waived his rights to a sentencing jury, the court issued a standing order for sentencing procedures including a possible bifurcation and sentencing jury.	1	Johns, Brett	U.S. v. Johns, 2004 U.S. Dist. LEXIS 18479 (M.D. Pa., Sept. 15, 2004)
Remanded case to the district court for further proceedings on the application of Blakely to the guidelines.	1	Kingsbury, Randall S.	U.S. v. Kingsbury, 2004 U.S. App. LEXIS 17613 (9th Cir. Aug. 18, 2004)
Announced additional sentence pursuant to 18 USC 3553(a), treating guidelines as advisory only.	1	Koch, Robert	U.S. v. Koch, 2004 U.S. App. LEXIS 18138 (6th Cir. Aug. 26, 2004)
Court released defendant pending appeal.	1	LaGiglio, Bonnie	U.S. v. LaGiglio, 2004 U.S. Dist. LEXIS 14611 (N.D. Ill. July 29, 2004)
Court had authorized a sentencing jury, but it was later canceled upon consent of the government and the defendant.	1	Landgarten, Barry	U.S. v. Landgarten, 325 F. Supp. 2d 234 (E.D.N.Y. 2004)
Court issued a guideline sentence as well as a sentence if the guidelines are unconstitutional. In this case, bound by mandatory minimums, the result in both cases was 188 months.	1	Leach, Frederick	U. S. v. Leach, 325 F. Supp. 2d 557 (E.D. Pa. 2004)
Court imposed alternative sentences.	1	Leyva-Quintero, Renan Lorenzo	U.S. v. Leyva-Quintero, 2004 U.S. Dist. LEXIS 18000 (D. Kan. Aug. 4, 2004)
Pre-sentencing decision; if no	1	Lockett, Roddeeka	U. S. v. Lockett, 325

Frequency Report
Court Procedure

Entry date: 01-AUG-04 to 30-NOV-04

Rundate: NOV-30-04 03:57 PM

<u>Other Text</u>	<u>No. of</u> <u>Cases</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
Blakey issues, guidelines could be used. If there is Blakely issue, guidelines will be declared unconstitutional as applied and court will use discretionary sentencing.			F. Supp. 2d 673 (E.D. Va. 2004)
Pre-Blakely sentencing; defendant waived rights because he did not provide an explanation on why Blakely would apply.	1	Lopez, Carlos	U.S. v. Lopez, 2004 U.S. App. LEXIS 17474 (1st Cir. Aug. 19, 2004)
Pre-Blakely sentencing; court upheld application of firearm SOC, finding no clear error in the trial court's factual finding relating to the firearm.	1	Mendoza-Mesa, Ramon	U.S. v. Mendoza-Mesa, 2004 WL 2255084 (8th Cir. Oct. 8, 2004)
Court severed the additional allegations from the government's superceding indictment where it exposed the defendant to an additional 25 years and the government had no corroborating evidence.	1	Miller, Kevin	U.S. v. Miller, 2004 WL 1946381 (S.D.N.Y. Aug. 31, 2004)
Court severed the Blakely claims and requested supplemental briefs of the issue.	1	Minter, Bruce Edward	U.S. v. Minter, 2004 U.S. App. LEXIS 15878 (9th Cir. July 20, 2004)
Court remanded for resentencing.	1	Montgomery, Tiffany Harris	U.S. v. Montgomery 2004 U.S. App. LEXIS 14384 (6th Cir. July 14, 2004)
The court will resort to the pre-1984 sentencing system	1	Mueffleman, Steven D.	U.S. v. Mueffleman, 327 F. Supp. 2d 79 (D. Mass. 2004)
Dismissed the government's superseding indictment because the guideline-like charges violated the defendant's due process rights.	1	Mutchler, Jonathon Duwayne	U.S. v. Mutchler, 2004 U.S. Dist. LEXIS 18053 (S.D. Iowa Sept. 9, 2004)
Defendant signed plea agreement containing the facts the court used to apply enhancements	1	Noe, Rolan Dale	U.S. v. Noe, 2004 U.S. Dist. LEXIS 15511 (N.D. Tex. Aug. 6, 2004)
Court refuses to accept a partial guilty plea. The defendant wanted to plead guilty to the conspiracy charge, but have a jury	1	Perez, Ramon	U.S. v. Perez, 2004 U.S. Dist. LEXIS 20133 (D. Me. Oct. 5, 2004)

Frequency Report
Court Procedure

Entry date: 01-AUG-04 to 30-NOV-04

Rundate: NOV-30-04 03:57 PM

<u>Other Text</u>	<u>No. of</u> <u>Cases</u>	<u>Defendant</u>	<u>Citation to Source(s)</u>
determine the drug quantity. Remanded for resentencing in light of Blakely and Booker	1	Shearer, Kenneth	U.S. v. Shearer, 2004 WL 1795085 (7th Cir. Aug. 12, 2004)
Will use the statutory provisions for sentencing, giving consideration to the guidelines.	1	Sisson, Carl	U.S. v. Sisson, 326 F. Supp. 2d 203 (D. Mass. 2004)
Court remanded case for re- imposition of 20 year sentence after district court vacated and imposed a 60 month sentence on Apprendi grounds.	1	Spero, Donald Jerome	U.S. v. Spero, 375 F.3d 1285 (11th Cir. 2004)
Court delayed sentencing the defendant and rescheduled the hearing on a date after October 15, 2004.	1	Thompson, Marcellus Jabbar	U.S. v. Thompson, 2004 U.S. Dist. LEXIS 13213 (S.D.W.V. July 14, 2004)
Court denied defense motion to continue trial date pending Supreme Court Ruling in Booker, Fanfan.	1	Williams, Joseph E.	U.S. v. Williams, Pacer Docket Report No. 1:04cr160-0 (E.D. Va. Aug. 30, 2004)
Court severed guidelines it found unconstitutional from the others it applied.	1	Zompa, Nicholas	U.S. v. Zompa, 326 F. Supp. 2d 176 (D. Me. 2004)