

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**
Thurgood Marshall United States Courthouse
40 CENTRE STREET
New York, New York 10007
212-857-8500

JOHN M. WALKER, JR.
CHIEF JUDGE

ROSEANN B. MACKECHNIE
CLERK OF COURT

August 6, 2004

FOR IMMEDIATE RELEASE

John M. Walker, Jr., Chief Judge of the United States Court of Appeals for the Second Circuit, today announced a set of procedural and administrative measures that his court is adopting pending the Supreme Court's decision in United States v. Booker, No. 04-104, and United States v. Fanfan, No. 04-105 (to be argued October 4, 2004). These measures are as follows:

- (1) The court generally will hold mandates in all criminal cases pending the Supreme Court's decision in Booker/Fanfan. A panel may order that a mandate issue, however, in cases in which (a) the defendant was sentenced to no more than the applicable statutory minimum and (b) the facts that justified application of the statutory minimum were either admitted by the defendant or found by a jury beyond a reasonable doubt. Should any party believe there is a need for the district court to exercise jurisdiction prior to the Supreme Court's decision, it may file a motion seeking issuance of the mandate in whole or in part.
- (2) All motions to file supplemental briefs in light of the Supreme Court's decision in Blakely v. Washington, 124 S. Ct. 2531 (2004), will be denied without prejudice to renewal following the Supreme Court's decision in Booker/Fanfan.
- (3) Although any petition for rehearing should be filed in the normal course pursuant to Rule 40 of the Federal Rules of Appellate Procedure, the court will not reconsider those portions of its decisions that address defendants' sentences until after the Supreme Court's decision in Booker/Fanfan. In that regard, the parties will have until 14 days following the Supreme Court's decision to file supplemental petitions for rehearing in light of Booker/Fanfan.

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