

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-4049**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

SANDRA BANKS THOMPSON,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Durham. James A. Beaty, Jr., District Judge. (CR-03-454)

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Submitted: April 20, 2005

Decided: May 3, 2005

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Before NIEMEYER, SHEDD, and DUNCAN, Circuit Judges.

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Affirmed in part, vacated in part, and remanded by unpublished per curiam opinion.

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Marilyn Gerk Ozer, MASSENGALE & OZER, Chapel Hill, North Carolina, for Appellant. Anna Mills Wagoner, United States Attorney, Sandra Jane Hairston, Lawrence Patrick Auld, Assistant United States Attorneys, Greensboro, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Sandra Banks Thompson, indicted with several codefendants, pled guilty on February 3, 2004, to conspiracy to commit loan, mail, wire, and bank fraud, in violation of 18 U.S.C. § 371 (2000). On December 28, 2004, the district court sentenced Thompson, over her objection based on Blakely v. Washington, 124 S. Ct. 2531 (2004), to twenty-six months of imprisonment to be followed by three years of supervised release. The district court also specified an alternative sentence of probation pursuant to this court's recommendation in United States v. Hammoud, 378 F.3d 426 (4th Cir. 2004) (order), opinion issued by 381 F.3d 316 (4th Cir. 2004) (en banc), vacated, 125 S. Ct. 1051 (2005).

Thompson appealed, challenging her sentence under Blakely. On January 12, 2005, the Supreme Court in United States v. Booker, 125 S. Ct. 738 (2005), applied the reasoning in Blakely to the federal sentencing guidelines.

Thompson now moves for an expedited remand of her case to the district court to allow implementation of the alternative sentence previously announced by the district court.<sup>1</sup> The Government opposes both motions; those of Thompson's codefendants who have responded to the motions have no objection.

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<sup>1</sup>Thompson also moves for severance from her codefendants. We previously granted this motion by separate order.

We conclude that Thompson is entitled to be resentenced under Booker, as the Government concedes. As Thompson raises no other issues on appeal, we affirm her conviction and vacate the sentence imposed by the district court. We grant the motion for remand, having expedited its consideration to the extent practicable given the court's docket.<sup>2</sup> On remand, the district court shall reconsider Thompson's sentence in light of Booker. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED IN PART,  
VACATED IN PART, AND REMANDED

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<sup>2</sup>We decline Thompson's request to direct the district court to implement the alternative sentence previously announced.