

Advertisement

Sentencing Guidelines 'Reasonable,' Justices Rule

By Charles Lane
Washington Post Staff Writer
Friday, June 22, 2007; A02

The Supreme Court ruled yesterday that criminal sentences within guidelines set by a federal commission are generally entitled to be upheld on appeal, a decision that limits legal options for defendants who feel that they have been punished too harshly.

By a vote of 8 to 1, the court held that, even though it recently ruled that the sentencing ranges set by the [U.S. Sentencing Commission](#) are no longer mandatory, judges who follow them may be presumed to have acted reasonably.

The ruling, Justice [Stephen G. Breyer](#) wrote for the majority, "simply recognizes the real-world circumstance that when the judge's discretionary decision accords with the Commission's view . . . it is probable that the sentence is reasonable."

The court's decision was the latest in a line of cases that have been redefining criminal sentencing since the court ruled in 2000 that the Constitution requires a jury to prove every fact that a judge might use to increase a defendant's sentence.

In 2005, the court ruled that the federal sentencing guidelines, an elaborate set of rules designed to ensure that similar crimes be punished similarly across the country, ran afoul of the jury trial requirement. But it decided that the remedy was to make the guidelines advisory rather than mandatory, as they had been.

The case that the court decided yesterday, *Rita v. United States*, No. 06-5754, was meant to help define "advisory."

Victor Rita, convicted of perjury and obstruction of justice, asked for a lighter sentence based in part on his past military service. But the judge gave him 33 months, as suggested by the guidelines. The [U.S. Court of Appeals](#) for the 4th Circuit, based in [Richmond](#), upheld the sentence, saying that penalties within the guidelines are "presumptively reasonable."

This pattern has been repeated around the country since the Supreme Court's 2005 ruling.

In that sense, legal analysts said, the court's decision at least left defendants no worse off than they had been.

"It shores up district court power," said Douglas A. Berman, an expert on sentencing law at Ohio State University's Moritz College of Law, "but it doesn't tell us anything about what happens when a district court decides not to follow the general rules."

In his dissent yesterday, Justice [David H. Souter](#) said that a presumption of reasonableness for within-guidelines sentences creates "gravitational pull" on judges, moving them toward reliance on the sentencing guidelines and making it unclear what was accomplished by declaring the guidelines advisory in the first place.

But Chief Justice John G. Roberts Jr. and Justices [John Paul Stevens](#), [Antonin Scalia](#), [Anthony M. Kennedy](#), [Clarence Thomas](#), [Ruth Bader Ginsburg](#) and [Samuel A. Alito Jr.](#) agreed with Breyer, wholly or in part.

In the past, four of those justices -- Stevens, Scalia, Thomas and Ginsburg -- have joined Souter in supporting a strong right to a jury trial on all sentencing factors. But their acquiescence in the ruling yesterday appeared to reflect their belief that the court's 2005 decision was entitled to respect as precedent.

Breyer's opinion left open the question of whether the government is entitled to have a sentence that goes below the guidelines thrown out as unreasonable. The court will hear that issue, which is arguably more important to critics of the current sentencing policy, in its next term.

[View all comments](#) that have been posted about this article.

Post a Comment

Ad

Join the discussion. Sponsored by Cisco.  welcome to the human network. **cisco.**

[View all comments](#) that have been posted about this article.

Your washingtonpost.com User ID will be displayed with your comment.

Comments that include profanity or personal attacks or other inappropriate comments or material will be removed from the site. Additionally, entries that are unsigned or contain "signatures" by someone other than the actual author will be removed. Finally, we will take steps to block users who violate any of our posting standards, terms of use or privacy policies or any other policies governing this site. Please review the [full rules](#) governing commentaries and discussions. You are fully responsible for the content that you post.

© 2007 The Washington Post Company

Ads by Google

[DEFENDER Email Archiving](#)

Complete email archive appliance solutions starting under \$3,000

www.arcmailtech.com