

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

Administrative Order Regarding *Blakely* Cases

Filed: September 27, 2004

In order to assure consistency and timeliness in the processing of direct criminal appeals involving cases that may have issues potentially impacted by *Blakely v. Washington*, 124 S. Ct. 2531 (2004), during the period of time until the Supreme Court of the United States issues its opinions in *United States v. Booker*, No. 04-104, and *United States v. Fanfan*, No. 04-105, the court adopts the following procedures for these cases:

1. Briefing and submission will proceed in all criminal cases. Motions to stay briefing and for extensions of time based on *Booker* and *Fanfan* will be denied by the clerk.
2. Motions for leave to file supplemental briefs or F.R.A.P. 28(j) letters on *Blakely* issues will be taken with the case for consideration by the panels to which the cases are assigned for disposition on the merits. Such motions will be resolved after *Booker* and *Fanfan* are decided. Panels may permit or call for supplemental briefing after *Booker* and *Fanfan* are decided.
3. The time for filing petitions for rehearing or rehearing en banc will not be extended pending the issuance of the Supreme Court's decisions in *Booker* and *Fanfan*. Parties submitting rehearing petitions shall identify, but not brief, any *Blakely* issues. All other issues are to be briefed, subject to the page limitation on petitions for rehearing. The court will not reconsider those portions of its decisions that address *Blakely* issues until after the Supreme Court issues its decisions in *Booker* and *Fanfan*. Parties wishing to supplement pending rehearing petitions with issues raised by the Supreme Court's decisions in *Booker* and *Fanfan* may file supplemental petitions within fourteen days of those decisions.
4. The court generally will hold mandates in all criminal cases until the Supreme Court issues its decisions in *Booker* and *Fanfan*. Any panel to which a case is assigned may on its own motion, or the motion of a party, issue a mandate in whole or in part.
5. The court will not set a date for the rehearsings en banc in No. 02-3388 *United States v. Mooney* and No. 03-2871 *United States v. Louis F. Pirani* until after the Supreme Court issues its decisions in *Booker* and *Fanfan*.