

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 03-4083

UNITED STATES OF AMERICA

vs.

PRAYLOR NEWMAN
Appellant

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
(D.C. Crim. No. 02-cr-00539-01)

District Judge: Honorable J. Curtis Joyner

Submitted Under Third Circuit L.A.R. 34.1(a)
July 16, 2004

Before: SLOVITER, BARRY and WEIS, Circuit Judges.

ORDER

The Petition for Panel Rehearing filed by appellant is hereby granted.

We reaffirm the judgment of conviction.

Appellant challenges his sentence under United States v. Booker, 543 U.S. ___, 125 S. Ct. 738 (2005). We have determined that the sentencing issues appellant raises are best determined by the District Court in the first instance. Accordingly, we will vacate the sentence and remand for re-sentencing in accordance with Booker.

We also recommend that new counsel be appointed for appellant on remand.

The mandate shall issue forthwith.

BY THE COURT:

/s/ Joseph F. Weis, Jr.
United States Circuit Judge

Dated: May 17, 2005

ARL/cc: PN; TSS