

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 03-4842

UNITED STATES OF AMERICA

v.

WINSTON VITIELLO,
Appellant

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

D.C. Crim. No. 03-cr-00313

District Judge: The Honorable Faith S. Hochberg

Submitted Under Third Circuit LAR 34.1(a)
November 2, 2004

Before: ALITO, BARRY, and FUENTES, Circuit Judges

(Opinion Filed: April 26, 2005)

OPINION

BARRY, Circuit Judge

Winston Vitiello entered a plea of guilty pursuant to a plea agreement with the United States and was sentenced in accordance with the Sentencing Guidelines. The only

issues raised by either party relate to the District Court's interpretation and application of the Sentencing Guidelines. In the wake of the Supreme Court's decision in United States v. Booker, 543 U.S. ___, 125 S. Ct. 738 (2005), this Court has determined that sentencing issues are best determined by the District Court in the first instance. Accordingly, although we will affirm the conviction, we will vacate the sentence and remand for resentencing in accordance with Booker.