

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 01-3523

UNITED STATES OF AMERICA

v.

OTTO BARBOUR,
Appellant

ON REMAND FROM THE SUPREME COURT
OF THE UNITED STATES
D.C. Crim. No. 00-cr-00419-7
District Judge: The Honorable Eduardo C. Robreno

Submitted: March 29, 2005

Before: ALITO, BARRY, and AMBRO, Circuit Judges

(Opinion Filed May 25, 2005)

OPINION

BARRY, Circuit Judge

Appellant Otto Barbour was sentenced as a career offender under U.S.S.G. § 4B1.1 to a term of imprisonment of 235 months following his conviction on drug distribution charges. His conviction and sentence were affirmed by us on appeal, and he

thereafter petitioned for a writ of certiorari. On January 24, 2005, the Supreme Court entered an order granting certiorari, vacating the judgment, and remanding the case to this Court for further consideration in light of United States v. Booker, 543 U.S. ___, 125 S.Ct. 738 (2005).

Having determined that the sentencing issues appellant raises are best determined by the District Court in the first instance, we will remand to the District Court for resentencing in accordance with Booker. Appellant raises no challenge to his conviction and we will, again, affirm the judgment of conviction.