

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**HONORABLE KATHLEEN CARDONE**

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**ALL CRIMINAL CASES**

**STANDING ORDER ON SENTENCING IN CRIMINAL CASES**

In light of the recent statement by the United States Supreme Court on the application of the United States Sentencing Guidelines in *United States v. Booker*, No. 04-104, 2005 WL 50108 (U.S. Jan.12, 2005), the following procedures shall govern procedures in sentencing in cases before this Court.

While *Booker* renders the Guidelines advisory rather than mandatory, the Guidelines and ranges prescribed therein for particular offenses may not be ignored. In determining an appropriate sentence, this Court is obliged to consider the factors set forth in section 3553(a) of Title 18 in imposing an appropriate sentence, which includes but is not limited to the nature and seriousness of the offense, the defendant's history and the need to deter future crime and protect the public.

Presentence procedures shall be conducted as they were prior to *Booker*, with the following modifications. The Probation Office shall generate the Presentence Report and calculate the appropriate range under the Sentencing Guidelines. That suggested range will be weighed in the final calculus of what constitutes a reasonable sentence. If the parties object to the suggested range, the presentence report shall contain the basis for such objections (*ie.*, why the suggested range is not reasonable under the circumstances), a proposed range that would be considered reasonable, and a response to such objection. This process shall be repeated if both

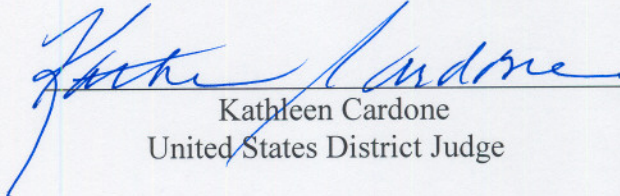
Government proposes a range higher than the suggested range and defendant proposes a range lower than the suggested range. All proposals shall be couched in terms of the factors set forth in section 3553(a) to the extent possible. Motions for upward or downward departure are no longer required given the advisory nature of the Guidelines.

At sentencing, this Court will either reject proposed departures from the suggested Guideline range or accept the proposal and state on the record its findings as to why the suggested range is not appropriate under the circumstances of the case.

The Clerk is directed to attach a copy of this Order to all notices of sentencing.

SO ORDERED.

Dated at El Paso, Texas, January 31, 2005.

  
Kathleen Cardone  
United States District Judge