

Comments to the United States Sentencing Commission
Atlanta, Georgia
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I appreciate the opportunity to appear before you today to share my thoughts about federal sentencing issues.

For those of you who have read my opinions, you know that I have been a vocal critic of the Sentencing Guidelines.¹ My objections have been twofold:

(1) Under mandatory Guidelines, the role of the judiciary was minimized to the point that it threatened judicial independence, and reduced district judges to a mere figurehead, rubber-stamping its imprimatur on the predetermined sentence chosen by the government. In essence, the Court became irrelevant in our criminal justice system; and

(2) The Guideline score often produced arbitrary and grossly unjust sentences.

My first concern has largely been resolved by a series of recent Supreme Court cases: *Booker*, *Kimbrough*, and now *Spears*.

But the lesson from these cases is not only that trial judges now have discretion in the sentencing process.

¹See *US v. Belvett*, 2005 U.S. Dist. LEXIS 4659, 18 Fla. L. Weekly Fed. D 372 (M.D. Fla. March 17, 2005); *US v. Hamilton*, 428 F. Supp. 2d 1253 (M.D. Fla. 2006); *US v. Williams*, 481 F. Supp. 2d 1298 (M.D. Fla. 2007); *US v. Delgado*, 2005 U.S. Dist. LEXIS 29966 (M.D. Fla. June 7, 2005); *US v. Miranda-Garcia*, 2006 U. S. Dist. LEXIS 26574 (M.D. Fla. May 4, 2006); *US v. Vasquez*, 2008 U.S. Dist. LEXIS 6984 (M.D. Fla. January 30, 2008).