

2017
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Case Law Update: Supreme Court and Selected Circuit Court Decisions

Selected Case Law Related to Recent Supreme Court Cases with an Emphasis on sentencing issues and related appellate court cases.

Supreme Court Cases

Beckles v. U.S., 137 S. Ct. 886 (2017). “We hold only that the advisory Sentencing Guidelines, including § 4B1.2(a)'s residual clause, are not subject to a challenge under the void-for-vagueness doctrine.”

Dean v. U.S., 137 S. Ct. 1170 (2017). A court can take into account the mandatory minimum under § 924(c) when calculating an appropriate sentence for the predicate offense.

Manrique v. U.S., --S.Ct.--, 2017 WL 1390728 (April 19, 2017). A single notice of appeal from an initial judgment deferring the determination of the restitution amount is not sufficient to invoke appellate review of a later-determined restitution amount in an amended judgment, at least where the Government objects.

Molina-Martinez v. U.S., 136 S. Ct. 1338 (2016). Where there is an unpreserved error in calculating a Sentencing Guidelines range, a defendant is not required to provide additional evidence to show the error affected his or her substantial rights.

“The Guidelines' central role in sentencing means that an error related to the Guidelines can be particularly serious. A district court that ‘improperly calculat[es]’ a defendant's Guidelines range, for example, has committed a ‘significant procedural error.’”

“The record in a case may show, for example, that the district court thought the sentence it chose was appropriate irrespective of the Guidelines range... And that explanation could make it clear that the judge based the sentence he or she selected on factors independent of the Guidelines. The Government remains free to ‘poin[t] to parts of the record’—including relevant statements by the judge—“to counter any ostensible showing of prejudice the defendant may make.”

Mathis v. U.S., 136 S. Ct. 2243 (2016). “A prior conviction does not qualify as the generic form of a predicate violent felony offense listed in the ACCA if an element of the crime of conviction is broader than an element of the generic offense because the crime of conviction enumerates various alternative factual means of satisfying a single element.”

The modified categorical approach is available only when a statute lists alternative elements.

Voisine v. U.S., 136 S. Ct. 2272 (2016). Reckless domestic assault qualifies as a “misdemeanor crime of domestic violence” under §922(g)(9).

Cert. Grant

Dimaya v. Lynch, 803 F.3d 1110 (9th Cir. 2015), *cert granted*, 137 S. Ct. 31 (2016) Question Presented: Whether 18 U.S.C. 16(b), as incorporated into the Immigration and Nationality Act's provisions governing an alien's removal from the United States, is unconstitutionally vague.

Molina-Martinez and Harmless Error

U.S. v. Sanchez, 850 F.3d 767 (5th Cir. 2017). “In imposing a 135-month sentence, the district court stated ‘to the extent that I erred in the application of the enhancement of plus six, the sentence would still be the same.’ This court has held that similar statements during sentencing provide sufficient basis to conclude that any potential error resulting from an improperly calculated Guidelines range is harmless. The record demonstrates that the judge ‘thought the sentence it chose was appropriate irrespective of the Guidelines range.’ *Molina-Martinez v. United States*, 136 S.Ct. 1338, (2016).”

U.S. v. Morrison, 852 F.3d 488 (6th Cir. 2017). “Here, in fixing Morrison's sentence at 96 months' confinement, the top of Morrison's Guidelines range, the district court emphasized that the offense was ‘extremely dangerous and egregious’ and that ‘domestic violence is prevalent’ throughout Morrison's criminal



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history. The district court stated that had it determined that aggravated burglary was not a crime of violence, it would have varied upward and ended up with the same Guidelines range. Since the district court would have sentenced Morrison to 96 months without regard to whether his conviction for Tennessee aggravated burglary qualifies as a crime of violence, the alleged error in calculating the Guidelines range would not entitle Morrison to resentencing in any event.”

U.S. v. Henderson, --F. App'x--, 2017 WL 56287 (11th Cir. 2016). (unpublished) “Because Henderson was sentenced on the basis of an incorrect, higher guideline range than the applicable one, and the record is silent as to how the district court would have sentenced him absent the error, he has

shown ‘a reasonable probability that, but for the error, the outcome of the proceeding would have been different.’” Henderson has established plain error, and we vacate his sentence and remand this case for the purpose of resentencing based on the correct total offense level and corresponding guideline range.

Restitution in Non-Economic Crimes

U.S. v. Sizemore, 850 F.3d 821 (6th Cir. 2017). Court had authority to order restitution to compensate defendant's victims for medical expenses, funeral expenses, and lost income and did not abuse its discretion when, precisely following contours of the VWPA, it awarded restitution in full amount from a DUI homicide.

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The United States Sentencing Commission, an independent agency in the judicial branch of the federal government, was organized in 1985 to develop a national sentencing policy for the federal courts. The resulting sentencing guidelines provide structure for the courts' sentencing discretion to help ensure that similar offenders who commit similar offenses receive similar sentences.