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USA v. Cartwright

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 04-1605

UNITED STATES OF AMERICA

v.

JEROME CARTWRIGHT,

Appellant

On Appeal From the United States District Court
For the Eastern District of Pennsylvania
(D.C. No. 01-cr-00190)
District Judge: Honorable Petrese B. Tucker

Submitted Under Third Circuit LAR 34.1(a)
January 18, 2006

Before: ROTH, FUENTES and BECKER, *Circuit Judges*

(Filed: January 23, 2006)

OPINION

BECKER, *Circuit Judge*.

Jerome Cartwright appeals from the sentence imposed following his conviction by a jury on drug and firearms charges. The sentence of 144 months was calculated in part on the basis of a two level increase in his base offense following a judicial finding that

Cartwright has obstructed justice. Cartwright challenges the sentence under *United States v. Booker*, 125 S. Ct. 738 (2005), inasmuch as these findings were not made by a jury or admitted by the defendant. Having determined that the sentencing issues that Cartwright raises are best determined by the District Court in the first instance, we will vacate the sentence and remand for resentencing in accordance with *Booker*. See *United States v. Davis*, 407 F.3d 162 (3d Cir. 2005) (en banc).