

File Name: 05a0248p.06

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

DAMON DUNBAR,

Defendant-Appellant.

No. 02-1766

Filed: June 8, 2005

Before: MOORE and ROGERS, Circuit Judges; FORESTER, District Judge.*

ORDER

On February 9, 2004, this court issued an opinion affirming Defendant Damon Dunbar's conviction and sentence. *United States v. Dunbar*, 357 F.3d 582 (6th Cir. 2004). On January 24, 2005, the United States Supreme Court granted Dunbar's petition for a writ of certiorari, vacated the judgment of this court, and remanded to this court for further consideration in light of *United States v. Booker*, 543 U.S. ___, 125 S. Ct. 738 (2005). *Dunbar v. United States*, ___ U.S. ___, 125 S. Ct. 1029 (2005). We reinstate our opinion of February 9, 2004, affirming Dunbar's conviction, with the exception of Part II.B. With respect to Dunbar's sentence, we vacate the judgment and sentence of the district court, and remand to the district court for resentencing in accordance with *Booker*.

ENTERED BY ORDER OF THE COURT

/s/ Leonard Green

Clerk

*The Honorable Karl S. Forester, United States District Judge for the Eastern District of Kentucky, sitting by designation.