

THE CONSTITUTION PROJECT



Safeguarding Liberty, Justice & the Rule of Law

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TCP Applauds Supreme Court Letting Juries Decide Facts on Mandatory Minimum Sentences

WASHINGTON, D.C. -- The Constitution Project, a nonpartisan legal watchdog group, praised today's Supreme Court decision that the Sixth Amendment requires a jury, rather than a judge, to determine facts that increase a defendant's mandatory minimum sentence. In its [decision](#) in *Alleyne v. United States* (Case No 11-9335), the Court ruled that any fact increasing a mandatory minimum sentence is an element of the crime that must be submitted to the jury and proved beyond a reasonable doubt.

"By limiting a judge's ability to use elements of a crime specifically rejected by a jury in determining whether or not to impose a mandatory minimum, the Court fittingly strengthened due process protections during the sentencing process, and we applaud them for it," said Virginia Sloan, president of The Constitution Project.

"In cases such as this one that have gone to a jury, we believe it is generally preferable to let the jury be the fact-finder in mandatory minimum sentencing determinations, rather than relying solely on the judge's discretion," she said.

Alleyne was convicted of robbery affecting commerce and use of a firearm during a crime of violence in violation of federal law. At sentencing, the district court judge held Alleyne responsible for brandishing a firearm during the robbery, even though he was acquitted by the jury on that charge, which elevated the mandatory minimum sentence for his firearm conviction from five years to seven years. A prior Supreme Court decision, *Harris v. United States*, held that this type of judicial fact-finding during sentencing did not violate the Sixth Amendment.

In *Alleyne*, the Court in a 5-4 vote overruled *Harris*, preventing judges from increasing mandatory minimum sentences using facts expressly denied by the jury. The majority made it clear that the case does not affect a judge's broad sentencing discretion, informed by judicial fact-finding, but that a judge may not constitutionally up the baseline punishment using facts considered and rejected by a jury.

In 2006, TCP issued its "[Recommendations for Federal Criminal Sentencing in a Post-Booker World](#)," describing *Harris v. United States* as "contrary to the rationale of [prior Court cases requiring the jury, rather than a judge, establish the facts that may increase punishment]" and noted that it "may not survive a direct challenge." Today's decision bears out that prediction.

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[About The Constitution Project](#)

Created out of the belief that we must cast aside the labels that divide us in order to keep our democracy strong, The Constitution Project (TCP) brings together policy experts and legal practitioners from across the political spectrum to foster consensus-based solutions to the most difficult constitutional challenges of our time. TCP seeks to reform the nation's broken criminal justice system and to strengthen the rule of law through scholarship, advocacy, policy reform and public education initiatives. Established in 1997, TCP is based in Washington, D.C.



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