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## Court splits on sentencing guidelines

### Locals weigh in on how federal decision will affect West Virginia

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The reason: federal judges, unlike state judges, were required to sentence people using a formula that factored in criminal behavior never admitted to by defendants or determined by a jury.

Last spring, for instance, U.S. District Judge Chuck Chambers had to increase the sentence of a Huntington couple convicted of selling drugs after he decided that they had a firearm connected to the crime.

Chambers increased Kathy and Donnie Bryant's sentence, even though a jury acquitted them of a criminal firearms charge in the same incident, said Mark Underwood, Kathy Bryant's lawyer.

Chambers was allowed to do that because he only needed to find the firearms charge was more likely than not to be true. The jury had a higher standard, evidence of guilt beyond a reasonable doubt.

"Hopefully, it will resolve those situations where people are being sentenced based on things that haven't been proven beyond a reasonable doubt," Underwood said.

The court began questioning the constitutionality of sentence guidelines last summer, when it said a similar formula used in Washington state courts violated defendants' Sixth Amendment rights to jury trials.

In the decisions released Wednesday, a coalition of liberal and conservative justices took that ruling one step further and applied it to the federal system. The group included Justices Antonin Scalia and Clarence Thomas — usually the court's most right-wing members — and John Paul Stevens, David H. Souter and Ruth Bader Ginsburg — among the most left-wing justices.

Stevens wrote for the 5-4 majority that elements of a crime "must be admitted by the defendant or proved to a jury beyond a reasonable doubt."

Ginsburg then switched sides in the accompanying vote not to throw out the guidelines entirely, but to making them non-mandatory. She joined Chief Justice William H. Rehnquist and Justices Sandra Day O'Connor, Stephen Breyer and Anthony Kennedy.

"Ours, of course, is not the last word. The ball now lies in Congress' court," Breyer wrote. "The national legislature is equipped to devise and install, long-term, the sentencing system, compatible with the Constitution, that Congress judges best for the federal system of justice."

Senate Judiciary Chairman Arlen Specter, R-Pa., said he would begin working to "establish a sentencing method that will be appropriately tough on career criminals, fair, and consistent with constitutional requirements."