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C.A. No. 04-30519
District Court No 04-33-M-DWM

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

-vs-

LOGAN HASTINGS BLACKMORE,

Defendant-Appellant.

NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF
MOTION FOR IMMEDIATE REMAND

Defendant-Appellant LOGAN HASTINGS BLACKMORE, through counsel of record, JOHN RHODES and the FEDERAL DEFENDERS OF MONTANA, hereby notifies the Court that its decision in *United States v. Ameline*, C.A. 02-30326, February 9, 2005, supports his Motion for Immediate Remand.

As Mr. Blackmore explained in his Motion for Immediate Remand, he seeks an immediate remand so that he can be resentenced in compliance with *United States v. Booker*, 125 S.Ct. 738 (2005). He seeks summary remand because he was sentenced on December 2, 2004, before *Booker* and its remedial decision issued, and thus, the district court sentenced Mr. Blackmore pursuant to a mandatory Guidelines sentence. His projected release date is March 31, 2005. Mr. Blackmore therefore fears that unless his case is remanded immediately, he will not be able to be sentenced in accordance with *Booker's* remedial holding.

Ameline supports Mr. Blackmore's request. *Ameline* noted that, in "*Booker*, the [Supreme] Court held that 'we must apply today's holding -- both the Sixth Amendment holding and our remedial interpretation of the Sentencing Act -- to all cases on direct review.'" Slip op. at 10 (quoting *Booker*, 125 S.Ct. at 769). *Ameline* recongnized that, "it is the *truly* exceptional case that will not require remand for resentencing under the new advisory guideline regime." Slip. op. at 17 (italics in original). After finding that the district court violated *Booker's* Sixth Amendment holding, *Ameline* detailed that, "[u]pon remand, the district court must resentence *Ameline* in accordance with the Court's remedial holding in *Booker*." Slip. op. at 17.

Mr. Blackmore brings *Ameline* to the Court's attention, so that he may possibly benefit from it (and *Booker*). In order to do so, this matter must be remanded immediately; otherwise, this Court may not be able to resolve Mr. Blackmore's appeal until after he is released from custody on March 31, 2005.

DATED this 10th day of February, 2005.

By

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CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2005, copies of the foregoing were sent,
by hand delivery or first class mail, to:

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