Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

DILLON *v.* UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 09–6338. Argued March 30, 2010—Decided June 17, 2010

In 1993, petitioner Dillon was convicted of, *inter alia*, crack and powder cocaine offenses, which produced a base offense level of 38 and a Guidelines range of 262-to-327 months' imprisonment. The court sentenced him at the bottom of the range for those counts. After the Sentencing Commission amended the Guidelines to reduce the base offense level associated with each quantity of crack cocaine, USSG Supp. App. C, Amdt. 706, and made that amendment retroactive, USSG Supp. App. C, Amdt. 713, Dillon moved for a sentence reduction under 18 U. S. C. §3582(c)(2). That provision authorizes a district court to reduce an otherwise final sentence pursuant to a Guidelines amendment if a reduction is consistent with the Commission's policy statements. The relevant policy statement, USSG §1B1.10, precludes a court from reducing a sentence "to a term that is less than the minimum of the amended guidelines range" except in limited circumstances. In addition to the two-level reduction authorized by the amendment, Dillon sought a variance below the amended Guidelines range, contending that *United States* v. *Booker*, 543 U. S. 220, authorized the exercise of such discretion. The District Court imposed a sentence at the bottom of the revised range but declined to grant a further reduction. Finding *Booker* inapplicable to §3582(c)(2) proceedings, the court concluded that the Commission's directives in §1B1.10 constrained it to impose a sentence within the amended Guidelines range. The Third Circuit affirmed.

Held: Booker's holdings do not apply to §3582(c)(2) proceedings and therefore do not require treating §1B1.10(b) as advisory. Pp. 6–14.

(a) The statute's text and narrow scope belie Dillon's characterization of proceedings under §3582(c)(2) as "resentencing" proceedings governed by the same principles as other sentencing proceedings. In-

stead, §3582(c)(2) authorizes only a limited adjustment to an otherwise final sentence. This conclusion is further supported by the substantial role Congress gave the Commission with respect to sentence-modification proceedings, charging it with determining whether and to what extent a Guidelines amendment will be retroactive, 28 U. S. C. §994(u), and authorizing a court to grant a reduction under §3582(c)(2) only "if [it] is consistent with applicable policy statements issued by the Sentencing Commission." Section 3582(c)(2) establishes a two-step inquiry: A court must (1) determine the scope of the reduction, if any, authorized by §1B1.10, and then (2) consider whether the authorized reduction is warranted according to the applicable §3553(a) factors. At step one, the court must follow the Commission's instructions in §1B1.10 to impose a term of imprisonment within the amended Guidelines range unless the sentencing court originally imposed a below-Guidelines sentence. §1B1.10(b)(2). Because reference to §3553(a) is appropriate only at step two, that provision does not transform §3582(c)(2) proceedings into plenary resentencing proceedings. Pp. 6–10.

(b) Given §3582(c)(2)'s limited scope and purpose, proceedings under that section do not implicate *Booker*. The section represents a congressional act of lenity intended to give prisoners the benefit of later enacted adjustments to the judgments reflected in the Guidelines. Taking the original sentence as given, any facts found by a judge at a §3582(c)(2) proceeding do not serve to increase the prescribed range of punishment; instead, they affect only the judge's exercise of discretion within that range. That exercise does not contravene the Sixth Amendment, even if it is informed by judge-found facts. *Apprendi* v. *New Jersey*, 530 U. S. 466, 481. Thus, Dillon's Sixth Amendment rights were not violated by the District Court's adherence to §1B1.10's instruction to consider a reduction only within the amended Guidelines range. Dillon's argument that *Booker*'s remedial opinion nonetheless requires the Guidelines to be treated as advisory in such proceedings is unpersuasive given that proceedings under §3582(c)(2) are readily distinguishable from other sentencing proceedings. Pp. 10–13.

(c) Also rejected is Dillon's argument that the District Court should have corrected other mistakes in his original sentence, namely, a *Booker* error resulting from the initial sentencing court's treatment of the Guidelines as mandatory and an alleged error in the calculation of his criminal-history category. Because those aspects of Dillon's sentence were not affected by the crack-cocaine Guidelines amendment, they are outside the scope of the §3582(c)(2) proceeding, and the District Court properly declined to address them. Pp. 13–14.

572 F. 3d 146, affirmed.

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SOTOMAYOR, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, THOMAS, GINSBURG, and BREYER, JJ., joined. STEVENS, J., filed a dissenting opinion. ALITO, J., took no part in the decision of the case.