

**FILED**

**SEP 08 2004**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHARLES JOSEPH AVESTRO BECKER,

Defendant - Appellant.

No. 03-50342

D.C. No. CR-01-00976-DT-01  
Central District of California,  
Los Angeles

ORDER

Before: FARRIS, KOZINSKI, and SILVERMAN, Circuit Judges.

The petition for rehearing is granted only as to the issue concerning *Blakely v. Washington*, 124 S. Ct. 2531 (2004), and *United States v. Ameline*, 376 F.3d 967 (9th Cir. 2004). Because the portion of Becker's sentence that is clearly unaffected by *Blakely* and *Ameline* has expired, we remand Becker's sentence for such further proceedings as the district court deems appropriate under the circumstances. *See United States v. Castro*, No. 03-50444 (9th Cir. Aug. 27, 2004).