that increases the penalty for a crime beyond the prescribed statutory maximum," the Court concluded, "must be submitted to a jury, and proved beyond a reasonable doubt."[93] The one exception *Apprendi* recognized was for sentencing enhancements based on recidivism.[94]

Apprendi's importance soon became evident as the Court applied its reasoning in other situations. In *Ring v. Arizona*,[95] the Court, overruling precedent,[96] applied *Apprendi* to invalidate an Arizona law that authorized imposition of the death penalty only if the judge made a factual determination as to the existence of any of several aggravating factors. Although Arizona required that the judge's findings as to aggravating factors be made beyond a reasonable doubt, and not merely by a preponderance of the evidence, the Court ruled that the findings must be made by a jury.[97]

In *Blakely v. Washington*,[98] the Court applied *Apprendi* to cast doubt on types of widely adopted reform measures that were intended to foster more consistent sentencing practices. Blakely, who pled guilty to an offense for which the "standard range" under the Washington State's sentencing law was 49 to 53 months, was sentenced to 90 months based on the judge's determination—not derived from facts admitted in the guilty plea—that the offense had been committed with "deliberate cruelty," a basis for an "upward departure" under the statute. The 90-month sentence conformed to

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[93] 530 U.S. at 490.

[94] 530 U.S. at 490. Enhancement of sentences for repeat offenders is traditionally considered a part of sentencing, and a judge may find the existence of previous valid convictions even if the result is a significant increase in the maximum sentence available. Almendarez-Torres v. United States, 523 U.S. 224 (1998) (deported alien reentering the United States is subject to a maximum sentence of two years, but upon proof of a felony record, is subject to a maximum of twenty years). *Almendarez-Torres* was cited with approval on this point in James v. United States, 550 U.S. 192, 214 n.8 (2007) ("prior convictions need not be treated as an element of the offense for Sixth Amendment purposes"). *See also* Parke v. Raley, 506 U.S. 20 (1992) (if the prosecutor has the burden of establishing a prior conviction, a defendant can be required to bear the burden of challenging its validity).

[95] 536 U.S. 584 (2002).

[96] Walton v. Arizona, 497 U.S. 639 (1990). *Ring* also appears to overrule some other decisions on the same issue, including Spaziano v. Florida, 468 U.S. 447, 459 (1984), and Hildwin v. Florida, 490 U.S. 638, 640–41 (1989) (per curiam), and undercuts the reasoning of another. *See* Clemons v. Mississippi, 494 U.S. 738 (1990) (appellate court may reweigh aggravating and mitigating factors and uphold imposition of death penalty even though jury relied on an invalid aggravating factor).

[97] "Because Arizona's enumerated aggravating factors operate as 'the functional equivalent of an element of a greater offense,' . . . the Sixth Amendment requires that they be found by a jury." 536 U.S. at 609. The Court rejected Arizona's request that it recognize an exception for capital sentencing in order not to interfere with elaborate sentencing procedures designed to comply with the Eighth Amendment. Id. at 605–07.

[98] 542 U.S. 296 (2004).