

Table A-4

**GUIDELINE FORMING THE BASIS FOR REVERSAL OR REMAND IN
OFFENDER APPEALS OF THE ORIGINAL SENTENCE¹
Fiscal Year 2019**

GUIDELINE	N	%
NUMBER OF OFFENDER APPEALS	513	--
§5D1.3 (Conditions of Supervised Release)	107	20.9
§2K2.1 (Firearms)	29	5.7
§5E1.1 (Restitution)	24	4.7
§2D1.1 (Drug Trafficking)	23	4.5
§4B1.4 (Armed Career Criminal)	22	4.3
§2L1.2 (Unlawfully Entering or Remaining in the United States)	18	3.5
§2B1.1 (Larceny, Embezzlement, and Theft)	14	2.7
§5D1.2 (Terms of Supervised Release)	12	2.3
§6A1.3 (Resolution of Disputed Factors)	12	2.3
§5E1.4 (Forfeiture)	12	2.3
§4B1.2 (Definitions for Career Offender)	12	2.3
§4B1.1 (Career Offender)	10	1.9
§1B1.3 (Relevant Conduct)	9	1.8
§1B1.11 (Use of Guideline Manual in Effect at Sentencing)	8	1.6
§4A1.1 (Criminal History Category)	8	1.6
§4A1.2 (Definitions and Instructions of Criminal History)	8	1.6
§5G1.2 (Sentencing on Multiple Counts of Conviction)	8	1.6
§3B1.2 (Mitigating Role)	7	1.4
§3C1.1 (Obstruction of Justice)	7	1.4
§5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison)	6	1.2
§3E1.1 (Acceptance of Responsibility)	6	1.2
§3B1.1 (Aggravating Role)	4	0.8
§2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors)	4	0.8
§3D1.4 (Determining the Combined Offense Level)	4	0.8
§5C1.2 (Limitation on Applicability of Statutory Minimums)	3	0.6
§5K2.23 (Discharged Terms of Imprisonment)	3	0.6
§3B1.3 (Abuse of Position of Trust or Use of Special Skill)	3	0.6
§2B3.1 (Robbery)	3	0.6
Reasonableness Issues	401	78.2
Other Non-guideline Issues	231	45.0
Other Guidelines	41	8.0
Constitutional Issues	5	1.0

¹ Based on 3,347 appeals by offenders of the original sentence. Of these 3,347 appeals, 2,834 were excluded because the lower court sentence was affirmed by the circuit court. Often more than one issue was appealed; consequently, the number of guidelines or other issues listed is more than the number of cases appealed by the offender and the percent column (%) does not add to 100%. If more than one issue involving a guideline was appealed in the same appeal that guideline was counted only once. The 'Other Guideline' category includes all guidelines appealed less than three times. Descriptions of variables used in this table are provided in Appendix A.

SOURCE: U.S. Sentencing Commission, 2019 Appeals Datafile, APPFY19.