

Table A-4

**GUIDELINE FORMING THE BASIS FOR REVERSAL OR REMAND IN
OFFENDER APPEALS OF THE ORIGINAL SENTENCE¹
Fiscal Year 2020**

GUIDELINE	N	%
NUMBER OF OFFENDER APPEALS	442	--
§5D1.3 (Conditions of Supervised Release)	85	19.2
§5E1.1 (Restitution)	37	8.4
§2D1.1 (Drug Trafficking)	21	4.8
§4B1.1 (Career Offender)	21	4.8
§2K2.1 (Firearms)	19	4.3
§4B1.2 (Definitions for Career Offender)	19	4.3
§2B1.1 (Larceny, Embezzlement, and Theft)	19	4.3
§4B1.4 (Armed Career Criminal)	14	3.2
§6A1.3 (Resolution of Disputed Factors)	13	2.9
§5E1.4 (Forfeiture)	12	2.7
§1B1.3 (Relevant Conduct)	12	2.7
§4A1.1 (Criminal History Category)	9	2.0
§2L1.2 (Unlawfully Entering or Remaining in the United States)	9	2.0
§5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison)	9	2.0
§5G1.2 (Sentencing on Multiple Counts of Conviction)	9	2.0
§5E1.5 (Cost of Prosecution)	8	1.8
§3C1.1 (Obstruction of Justice)	7	1.6
§1B1.11 (Use of Guideline Manual in Effect at Sentencing)	7	1.6
§5D1.2 (Terms of Supervised Release)	7	1.6
§5C1.2 (Limitation on Applicability of Statutory Minimums)	6	1.4
§2B3.1 (Robbery)	6	1.4
§2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors)	5	1.1
§4A1.2 (Definitions and Instructions of Criminal History)	5	1.1
§3E1.1 (Acceptance of Responsibility)	5	1.1
§3B1.2 (Mitigating Role)	5	1.1
§5E1.2 (Fines for Individual Defendants)	5	1.1
§3A1.1 (Hate Crime Motivation or Vulnerable Victim)	4	0.9
§5E1.3 (Special Assessments)	4	0.9
§3D1.2 (Groups of Closely Related Counts)	3	0.7
§3B1.1 (Aggravating Role)	3	0.7
§1B1.1 (Application Instructions)	3	0.7
Reasonableness Issues	389	88.0
Other Non-guideline Issues	165	37.3
Other Guidelines	37	8.4
Constitutional Issues	16	3.6

¹ Based on 3,190 appeals by offenders of the original sentence. Of these 3,190 appeals, 2,748 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, 2020 Appeals Datafile, APPFY20.