

**Table 57**

**GUIDELINE FORMING THE BASIS FOR REVERSAL OR REMAND IN  
DEFENDANT APPEALS OF THE ORIGINAL SENTENCE<sup>1</sup>  
Fiscal Year 2016**

<b>GUIDELINE</b>	<b>N</b>	<b>%</b>
<b>NUMBER OF DEFENDANT APPEALS</b>	<b>620</b>	<b>--</b>
4B1.4 (Armed Career Criminal)	80	12.9
4B1.2 (Definitions for Career Offender)	36	5.8
5D1.3 (Conditions of Supervised Release)	35	5.6
5E1.1 (Restitution)	30	4.8
2K2.1 (Firearms)	28	4.5
2L1.2 (Unlawfully Entering or Remaining in the United States)	19	3.1
3B1.2 (Mitigating Role)	16	2.6
2B1.1 (Larceny, Embezzlement, and Theft)	15	2.4
3B1.1 (Aggravating Role)	12	1.9
1B1.10 (Retroactivity of Amended Guideline Ranges)	11	1.8
4B1.1 (Career Offender)	11	1.8
5D1.2 (Terms of Supervised Release)	11	1.8
2D1.1 (Drug Trafficking)	9	1.5
3C1.1 (Obstruction of Justice)	8	1.3
3E1.1 (Acceptance of Responsibility)	7	1.1
1B1.3 (Relevant Conduct)	5	0.8
5D1.1 (Supervised Release)	5	0.8
5E1.4 (Forfeiture)	5	0.8
6A1.3 (Resolution of Disputed Factors)	4	0.6
2A3.5 (Failure to Register as a Sex Offender)	3	0.5
4A1.2 (Definitions and Instructions of Criminal History)	3	0.5
1B1.11 (Use of Guidelines Manual in Effect at Sentencing)	2	0.3
2A6.1 (Threatening or Harassing Communication)	2	0.3
2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors)	2	0.3
2K2.4 (Use of Firearms/Armor-Piercing Ammunition in Relation to Certain Crimes)	2	0.3
3C1.2 (Reckless Endangerment)	2	0.3
4A1.1 (Criminal History Category)	2	0.3
5B1.3 (Conditions of Probation)	2	0.3
Reasonableness Issues	388	62.6
Constitutional Issues	8	1.3
Other Guidelines	18	2.9
Other Non-guideline Issues	272	43.9

<sup>1</sup> Based on 3,439 appeals by defendants of the original sentence. Of these 3,439 cases, 2,819 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 defendant 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 Guidelines" category includes all guideline issues appealed one time.

SOURCE: U.S. Sentencing Commission, 2016 Appeals Datafile, APPFY16.