

Table A-4

**GUIDELINE FORMING THE BASIS FOR REVERSAL OR REMAND IN
OFFENDER APPEALS OF THE ORIGINAL SENTENCE¹
Fiscal Year 2021**

GUIDELINE	N	%
NUMBER OF OFFENDER APPEALS	416	--
§5D1.3 (Conditions of Supervised Release)	42	10.1
§5E1.1 (Restitution)	26	6.3
§2K2.1 (Firearms)	23	5.5
§4B1.2 (Definitions for Career Offender)	23	5.5
§4B1.4 (Armed Career Criminal)	21	5.0
§2B1.1 (Larceny, Embezzlement, and Theft)	20	4.8
§4B1.1 (Career Offender)	12	2.9
§3B1.1 (Aggravating Role)	9	2.2
§5E1.4 (Forfeiture)	9	2.2
§2D1.1 (Drug Trafficking)	8	1.9
§4A1.2 (Definitions and Instructions of Criminal History)	5	1.2
§5D1.2 (Terms of Supervised Release)	5	1.2
§3C1.1 (Obstruction of Justice)	5	1.2
§1B1.3 (Relevant Conduct)	5	1.2
§4A1.1 (Criminal History Category)	4	1.0
§2G2.2 (Trafficking Material Involving Sexual Exploitation of Minors)	4	1.0
§5G1.3 (Imposition of Sentence; Defendant Subject to Undischarged Term of Prison)	4	1.0
§6A1.3 (Resolution of Disputed Factors)	4	1.0
§2L1.2 (Unlawfully Entering or Remaining in the United States)	3	0.7
§3E1.1 (Acceptance of Responsibility)	3	0.7
§5E1.3 (Special Assessments)	3	0.7
§5C1.2 (Limitation on Applicability of Statutory Minimums)	3	0.7
§3B1.2 (Mitigating Role)	3	0.7
§2G2.1 (Production of Pornography)	3	0.7
§3D1.2 (Groups of Closely Related Counts)	3	0.7
Reasonableness Issues	277	66.6
Other Non-guideline Issues	215	51.7
Other Guidelines	34	8.2
Constitutional Issues	5	1.2

¹ Based on 2,525 appeals by offenders of the original sentence. Of these 2,525 appeals, 2,109 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, 2021 Appeals Datafile, APPFY21.