

Robbery Scenario Guideline Application Exercise

United States Sentencing Commission Office of Education & Sentencing Practice

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ROBBERY SCENARIO

Application of the guidelines for Defendant A

Conviction: Count 1

Offense: Armed Bank Robbery on February 1, 2015;
violation of 18 U.S.C. § 2113(a) & (d)

Maximum Statutory Penalties:

- Up to 25 years imprisonment (no mandatory minimum)
- Up to \$250,000 fine
- Class B Felony (18 U.S.C. § 3559(a)(2))
 - probation not authorized (18 U.S.C. § 3561(a)(1))
 - supervised release of up to 5 years following imprisonment (18 U.S.C. § 3583(b)(1))
 - up to 3 years imprisonment upon a subsequent revocation of supervised release (18 U.S.C. § 3583(e)(3))

Facts

1. On February 1, 2015, Defendant A and a co-participant robbed a federally insured bank.
2. The robbery was planned by Defendant A, who directed the co-participant.
3. In the robbery, Defendant A carried the pistol while the co-participant carried a folding knife.
4. Although not part of the plan, during the robbery Defendant A pushed a teller, causing her to fall and resulting in a cut on her forehead, bruises, and contusions.
5. While neither part of the plan, nor directed by Defendant A, during the robbery the co-participant restrained a customer by binding him with tape and forcing him into a closet.

6. \$15,000 in bank loot was taken and ultimately divided, \$9,000 for Defendant A and \$6,000 for the co-participant; \$5,000 of the loot was recovered from Defendant A upon arrest six days after robbery, while nothing was recovered from the co-participant.
7. Within a few days of apprehension Defendant A provided full information to the government and announced intentions to plead guilty. The government stated that they will make a motion for Defendant A to receive full Acceptance of Responsibility.

Prior Record

Defendant A has prior criminal record resulting from conduct committed after he was 18 years old and disposed of in state court, as follows:

- 6 years prior to instant robbery auto theft 2 years probation
- 3 years prior to instant robbery grand larceny 6 months jail &
3 years probation to follow

Defendant A was on this probation at the time of the instant robbery

Criminal History Calculations

Chapter Four, Part A

- 2 year probation sentence for auto theft: 1 criminal history point (§4A1.1(c))
- 6 month jail sentence followed by 3 years' probation for grand larceny: 2 criminal history points (§4A1.1(b))
- "Status" due to the instant offense being committed while on the probation of the prior grand larceny sentence: 2 criminal history points (§4A1.1(d))

Criminal History Category III (based on a total of 5 criminal history points)

"Overrides" of Offense Level and/or Criminal History Category

§3A1.4 and Chapter Four, Part B

No "overrides" are applicable

Applicable Guideline Range

Chapter Five, Part A - Sentencing Table

135-168 months (11 years, 3 months to 14 years) (Based on Offense Level 31 and Criminal History Category III)

Zone D - no imprisonment substitutions provided for under the guidelines, pursuant to §5C1.1(f), because the guideline range of 135-168 months is in Zone D on the Sentencing Table

Supervised Release

Two to five years of supervised release to follow imprisonment, pursuant to §5D1.2(a)(1), based on the statutory classification of the offense as a Class B felony

Restitution

\$10,000 restitution to the bank for the unrecovered bank loot; payment to the injured teller in the amount of the medical expenses and the lost income resulting from the offense; and, payment to victims for lost income, child care, transportation and other expenses incurred during participation in the investigation, prosecution, and proceedings relating to the offense, pursuant to 18 U.S.C. § 3663A (Mandatory restitution) and §5E1.1

Fine

\$15,000 to \$150,000, assuming an ability to pay, pursuant to §5E1.2(c)(3)(A)&(B), based on offense level 31