INTERACTIVE

Case Law Update

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Case Law Update provides brief summaries of select Supreme Court and appellate court decisions that involve the guidelines and other aspects of federal sentencing. Each quarterly release is replaced with a cumulative update. Cases appear in descending chronological order within a circuit. The Commission publishes this document to assist in understanding and applying the sentencing guidelines. The information does not necessarily represent the official position of the Commission, and it should not be considered definitive or comprehensive.

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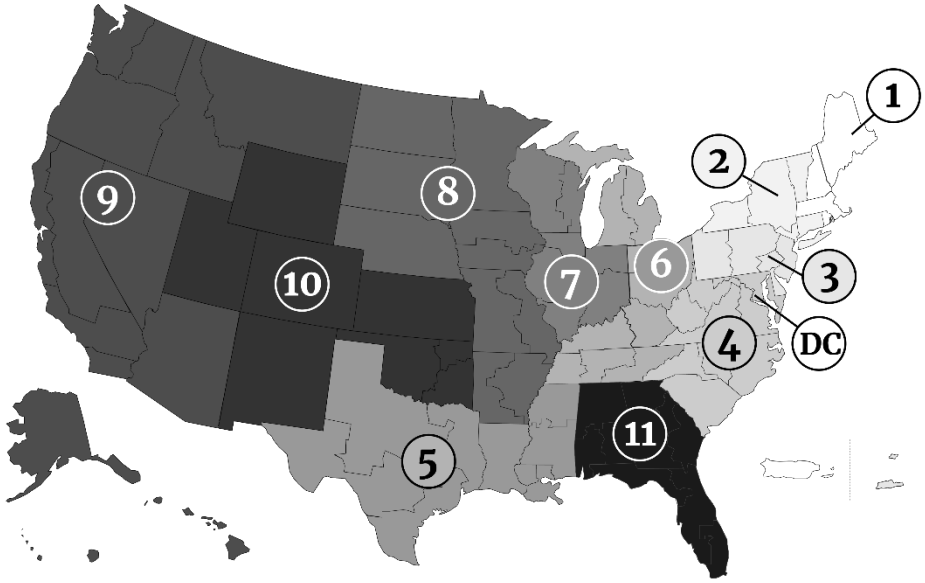

Cases appear in descending chronological order within a circuit.

U.S. Supreme Court

Hewitt v. United States, 606 U.S. 419 (2025)	"All first-time [18 U.S.C. § 924(c)] offenders who appear for sentencing after the First Step Act's [(FSA)] enactment date—including those whose previous sentences have been vacated and who thus need to be resentenced—are subject to the Act's revised penalties." Based on the present-perfect tense of section 403(b) of the FSA and "the nature of vacatur," a vacated sentence "has not been imposed" for the purposes of section 403(b), thereby allowing for resentencing.
Esteras v. United States, 606 U.S. 185 (2025)	District courts cannot consider 18 U.S.C. § 3553(a)(2)(A) when revoking supervised release under 18 U.S.C. § 3583(e) because the ten factors specified in section 3553(a) inform a district court's sentencing decision and eight of those ten factors allow for revocation under section 3583(e). "[T]he natural implication is that Congress did not intend for courts to consider the other two factors."
Delligatti v. United States, 604 U.S. 423 (2025)	Causing bodily harm by omission requires the use of force within the meaning of the elements clause in 18 U.S.C. § 924(c). Thus, New York second-degree murder—and, a VICAR offense premised on it—is a "crime of violence" under 18 U.S.C. § 924(c), even though it can be committed by omission. Moreover, because "[i]ntentional murder is *the* prototypical 'crime of violence,' and it has long been understood to incorporate liability for both act and omission," omissions can qualify as acts of violence under section 924(c).

Appellate Court

Career Offender

Second Circuit

United States v. Delgado, 149 F.4th 244 (2d Cir. 2025)	"[A]ttempted second-degree murder in violation of Fla. Stat. §§ 782.04(2) and 777.04(1) is categorically a crime of violence," within the meaning of §4B1.2(a), for purposes of the heightened base offense levels in §2K2.1(a). The Florida statutes require "a depraved mind," which as defined by Florida law "is much closer to knowledge than to ordinary recklessness."

Third Circuit

United States v. Dobbin, 147 F.4th 333 (3d Cir. 2025)	Because the strictures of *Shepard v. United States*, 544 U.S. 13 (2005), "do not apply to determining the fact of a prior conviction," when employing the modified categorical approach for the purposes of applying the career offender enhancement, courts may consider non-*Shepard* documents to establish the fact of a prior conviction.

United States v. Payo, 135 F.4th 99 (3d Cir. 2025)	The district court abused its discretion when it determined that the defendant's prior robbery offenses qualified as "crimes of violence" under §4B1.2 in reliance on a forfeited argument and a non-*Shepard* document (a state court docket sheet).

Fourth Circuit

United States v. Nelson, 151 F.4th 577 (4th Cir. 2025)	A 2012 conviction for distribution of crack cocaine under 21 U.S.C. § 841(a)(1) and (b)(1)(C) qualifies as a "controlled substance offense" under §4B1.2(b) for a 2022 sentencing even though certain substances referenced in the statute had been removed from the federal schedules, under the court's prior holding in *United States v. Johnson*, 114 F.3d 435 (4th Cir. 1997) (adopting a time-of-sentencing approach "specifically for a Guidelines career offender analysis"), which remains binding after *Brown v. United States*, 602 U.S. 101 (2024).
United States v. Suncar, 142 F.4th 259 (4th Cir. 2025)	A conviction pursuant to Virginia Code § 18.2-248, which criminalizes completed offenses separately from § 18.2-257 (criminalizing attempted offenses), "is a proper predicate for the career offender enhancement." The Pennsylvania offense of delivery of a controlled substance in violation of 35 Pa. Stat. and Cons. Stat. § 780-113(a)(30), which defines "delivery" to include an attempted transfer, is a "controlled substance offense" within the meaning of §4B1.2(b) because "an 'attempted transfer' is an actual delivery, not an attempted one," and since the statute criminalizes "only the completed offense of 'attempted transfer,'[it] isn't categorically overbroad as compared to the guidelines."
United States v. Parham, 129 F.4th 280 (4th Cir. 2025)	Virginia common law robbery, which "can be committed by conduct broader than the generic form of robbery," is not a "crime of violence" under the enumerated offenses clause of §4B1.2(a)(2).

Fifth Circuit

United States v. Hudson, 161 F.4th 263 (5th Cir. 2025)	Arkansas robbery, pursuant to Ark. Code Ann. § 5-12-102(a), qualifies as a "crime of violence" under §4B1.2(a)(2) because both the guidelines definition of "robbery" and the state statute "require the illegal taking to have a force element either before or immediately after committing the theft," and "'[t]he Supreme Court has stated that 'minor variations in terminology' do not trump the observation that 'the state statute corresponds in substance to the generic meaning.'"

United States v. King, 155 F.4th 341 (5th Cir. 2025)	On plain error review, Louisiana armed robbery qualifies as a "crime of violence" under §4B1.2, rejecting the defendant's argument that it is a general intent crime that can be committed recklessly or negligently. *United States v. Garner*, 28 F.4th 678 (5th Cir. 2022)—which held that Louisiana aggravated assault with a firearm is not categorically a "crime of violence" under §4B1.2(a) because the state's general intent scheme permits an aggravated assault conviction with a mens rea of recklessness—is limited to the Louisiana aggravated assault statute.
United States v. Wickware, 143 F.4th 670 (5th Cir. 2025)	While a change to "commentary must clearly overrule our caselaw to warrant a departure from the rule of orderliness, . . . [a] change to the Guidelines themselves is more important, and more akin to statutory amendment" such that pre-amendment precedent on what constitutes "a crime of violence" no longer controls. Because the 2023 amended guidelines definition of "robbery" "is the same or broader than" the Texas Penal Code's definition, a Texas robbery conviction is a "crime of violence" under §4B1.2(a)(2).
Sixth Circuit	
United States v. Tooley, 155 F.4th 883 (6th Cir. 2025)	A conviction for second-degree manslaughter for "wantonly caus[ing] the death of another person," in violation of Ky. Rev. Stat. § 507.040(1), is not a "crime of violence" for purposes of §2K2.1(a)(3). "Because wantonness under Kentucky law is functionally identical to recklessness as defined in *Borden* [*v. United States*, 593 U.S. 420 (2021)], a crime requiring a *mens rea* of wantonness under Kentucky law is not a 'crime of violence' under the Sentencing Guidelines."
United States v. Evans, 156 F.4th 813 (6th Cir. 2025)	"Aggravated robbery with a deadly weapon [in violation of Ohio Revised Code § 2911.01(A)(1)], when predicated on theft, qualifies as a crime of violence" as defined at §4B1.2(a). The Ohio statute is divisible, and when predicated on theft, "categorically matches Guidelines extortion and thus constitutes a crime of violence."
United States v. Cervenak, 135 F.4th 311 (6th Cir. 2025)	Robbery in violation of Ohio Revised Code § 2911.02(A)(2) is not a "crime of violence" for purposes of §4B1.2(a)(2) because the elements of the Ohio robbery statute are not a categorical match with the elements of the guidelines' definitions of extortion or robbery.
Seventh Circuit	
United States v. Ferguson, 131 F.4th 617 (7th Cir. 2025)	A conviction under 18 U.S.C. § 844(i) for maliciously destroying a building or vehicle by fire or explosives counts as "arson" and thus is a "crime of violence" for purposes of §4B1.2(a)(2).

Eighth Circuit

United States v. Wires, 147 F.4th 1100 (8th Cir. 2025)	A robbery conviction under Iowa Code § 711.1(1)(b) is a "crime of violence" within the meaning of §4B1.2(a)(1) for purposes of the heightened base offense levels in §2K2.1. While the conviction record referenced only section 711.1(1)(a), "the district court did not clearly err by relying on the factual basis set forth in the plea agreement," which tracked section 711.1(1)(b).

Ninth Circuit

United States v. Keast, 152 F.4th 1039 (9th Cir. 2025)	A conviction for "aggravated 'unlawful use of a weapon'" under Or. Rev. Stat. §§ 161.610 and 166.220(1)(a) is not a "crime of violence" under §4B1.2(a)(1) because the combined statutory elements require only that the use or threatened use of a firearm be "'during the commission' of the corresponding felony" and do not require the government to prove the 'use, attempted use, or threatened use of physical force *against the person of another*.'"

Tenth Circuit

United States v. Sjodin, 139 F.4th 1188 (10th Cir. 2025)	Under *Borden v. United States*, 593 U.S. 420 (2021), assault with a firearm in violation of California Penal Code § 245 is not a "crime of violence" or "aggravated assault" under either §4B1.2(a)'s element clause or enumerated clause because the elements of the California assault statute permit convictions for a mens rea less culpable than recklessness.

Eleventh Circuit

United States v. Rowe, 143 F.4th 1318 (11th Cir. 2025)	Overruling circuit precedent, the court held that a Florida conviction for cocaine trafficking in violation of Fla. Stat. § 893.135 qualifies as a "controlled substance offense" under §4B1.1 because the Florida Supreme Court has since clarified that purchase of a controlled substance necessarily entails some form of possession, thus qualifying it as a predicate offense under the guidelines.

Categorical Approach

First Circuit

Rodríguez-Méndez v. United States, 134 F.4th 1 (1st Cir. 2025)	Robbery of a motor vehicle in violation of Article 173B of the Puerto Rico Penal Code, P.R. Laws Ann. tit. 33 § 4279b (repealed 2004), is not a "violent felony" under 18 U.S.C. § 924(e), the Armed Career Criminal Act, because Puerto Rico law "does not limit intimidation to threatened use of force against the 'person of another'" but "also includes threats against property."

Rojas-Tapia v. United States, 130 F.4th 241 (1st Cir. 2025)	"Aggravated mail robbery" under 18 U.S.C. § 2114(a) constitutes a "crime of violence" within the meaning of 18 U.S.C. § 924(c) where not based on repeated commission of "simple mail robbery."
Third Circuit	
United States v. Vines, 134 F.4th 730 (3d Cir. 2025)	The federal bank robbery statute, 18 U.S.C. § 2113(a), is divisible and includes the distinct offenses of bank extortion and bank robbery. Attempted armed bank robbery in violation of section 2113(d) "predicated on § 2113(a)'s robbery clause is a crime of violence under 18 U.S.C. § 924(c)(3)(A)."
Fourth Circuit	
United States v. Shanton, 125 F.4th 548 (4th Cir. 2025)	*Borden v. United States*, 593 U.S. 420 (2021), did not undermine circuit precedent establishing that Maryland robbery is a "violent felony" for purposes of 18 U.S.C. § 924(e), the Armed Career Criminal Act (ACCA), because Maryland robbery "parrots in material respect" the definition in the ACCA.
Sixth Circuit	
United States v. Reed, 163 F.4th 338 (6th Cir. 2025)	A Kentucky conviction for Burglary in the First Degree in violation of Ky. Rev. Stat. Ann. § 511.020 is categorically not a "serious violent felony" for purposes of 21 U.S.C. §§ 841 and 851 because the statute covers conduct that does not include the use, attempted use, or threatened use of physical force against the person of another.
Seventh Circuit	
United States v. Santana, 141 F.4th 847 (7th Cir. 2025)	Unlike cases "holding [*Erlinger v. United States*, 602 U.S. 821 (2024),] errors harmless beyond a reasonable doubt," which "have involved much greater gaps in time and distance and greater differences in the crimes themselves," it was plain error for a judge, rather than a jury, to determine under the Armed Career Criminal Act that the offenses were committed on different occasions where the "time and distance factors" were "less clear-cut."
Eighth Circuit	
United States v. Wright, 163 F.4th 469 (8th Cir. 2025)	For purposes of the sentencing enhancement under 21 U.S.C. § 841(b)(1)(A) (2010), "cocaine-related convictions under Ark. Code Ann. § 5-64-401 are no longer predicate offenses" because that section "criminalizes a wider range of cocaine isomers than the federal definition of a felony drug offense" used for the enhancement.

Rose v. United States, 153 F.4th 664 (8th Cir. 2025)	"We join every other circuit to consider this issue after [*United States v. Taylor*, 596 U.S. 845 (2022),] in concluding that attempted murder"—including attempting to kill a witness in violation of 18 U.S.C. § 1512—"qualifies as a crime of violence" under 18 U.S.C. § 924(c), because "a crime of violence [] requires only that the defendant attempted the use of physical force against the person or property of another."

Ninth Circuit

United States v. Thompson, 127 F.4th 1204 (9th Cir. 2025)	Washington Revised Code § 9A.44.083 is a categorical match to "each element of the abusive sexual conduct generic definition of 'sexual abuse,'" and it "is either a categorical match to, or relates to, the generic offense of 'abusive sexual contact involving a minor.'" Therefore, a prior conviction under the Washington statute supports application of the 10-year mandatory minimum enhancement under 18 U.S.C. § 2251(e).

Tenth Circuit

United States v. Campbell, 156 F.4th 1019 (10th Cir. 2025)	Under *Borden v. United States*, 593 U.S. 420 (2021), Oklahoma armed robbery in violation of Okla. Stat. tit. 21, § 801 is not a "violent felony" under the Armed Career Criminal Act's elements clause as the "statutory text 'is silent as to any required mental state,'" and the "caselaw strongly indicates" that Oklahoma armed robbery is a "general-intent crime that can be committed with as little as a reckless use of force."
United States v. Butler, 141 F.4th 1136 (10th Cir. 2025)	*Borden v. United States*, 593 U.S. 420 (2021), did not disturb the holding of circuit precedent that forcible assault on a federal officer under 18 U.S.C. § 111(b) is a "crime of violence," as it "requires a finding that the defendant *intentionally* used, attempted to use, or threatened to use physical force against the person of another."

Eleventh Circuit

United States v. Miller, 157 F.4th 1365 (11th Cir. 2025)	When a sentencing court applies the categorical approach to determine whether a prior state drug conviction qualifies as a "serious drug offense" under the Armed Career Criminal Act, the court must look to the version of state law that applied at the time of the state drug offense, not at the time of the instant federal firearm offense.
United States v. Harbuck, 146 F.4th 1073 (11th Cir. 2025)	A South Carolina conviction for assault with intent to kill—an indivisible statute under which the least culpable form requires the purposeful or knowing intent to commit a violent injury—qualifies as a predicate "violent felony" under the elements clause of 18 U.S.C. § 924(e) (Armed Career Criminal Act).
United States v. Kennedy, 146 F.4th 1054 (11th Cir. 2025)	A Georgia conviction for burglary qualifies as an enumerated "violent felony" for the purposes of the Armed Career Criminal Act because the state statute is divisible, and under the modified categorical approach, the alternative elements under which the defendant was convicted match the generic definition of burglary.

Chapter Three Adjustments

First Circuit

United States v. Salvador-Gutierrez, 128 F.4th 299 (1st Cir. 2025) (en banc)	Contrary to an earlier panel ruling, an individual "may not be subjected to §3B1.4's upward adjustment based solely on it having been reasonably foreseeable that his co-conspirators would use a minor within the scope of, and in furtherance of, [a] conspiracy" under §1B1.3(a)(1)(B). Section 3B1.4 "reaches only those circumstances in which 'the defendant,' by some affirmative act, personally used or attempted to use a minor to commit the offense or assist in avoiding detection of, or apprehension for, the offense." Section 3B1.4 "requires some 'active[] employ[ment]' of [a] minor 'during the commission of the [offense],' as well as that the minor, so employed, play some 'detectable role in the [offense]'s commission." "It therefore is not enough for the government to show that a minor was merely present during an offense. Nor is it enough for the government to show that the defendant engaged the minor to some end that was unrelated to, or merely incidental to, the commission of the offense."

Second Circuit

United States v. Cooke, 143 F.4th 164 (2d Cir. 2025)	While the official victim adjustment in "section 3A1.2(b) does not apply if the offense guideline already incorporates an enhancement for the status of the victim as a government officer," Application Note 2 to §3A1.2 "makes clear that '[t]he *only* offense guideline in Chapter Two that specifically incorporates this factor is [§] 2A2.4 (Obstructing or Impeding Officers)."

Fourth Circuit

United States v. Lawson, 128 F.4th 243 (4th Cir. 2025)	The two-level vulnerable victim adjustment at §3A1.1 may be properly applied based on an individual's advanced age if there is "some link between age and susceptibility to the criminal conduct," such as in the "particular *context* of a telemarketing scheme that dangled potentially life-changing prize winnings." The court properly denied a minor role reduction at §3B1.2 because while performing "an essential or indispensable role . . . is not determinative," being a "conduit of funds"—like the defendant—is "an important and highly culpable role in a *money laundering conspiracy*."
United States v. Luong, 125 F.4th 147 (4th Cir. 2025)	The two-level vulnerable victim adjustment at §3A1.1 cannot be properly applied based on membership in a susceptible class unless the district court "clearly and unequivocally identif[ies] which particularized characteristics made the [v]ictim *unusually vulnerable* and why."

United States v. Bright, 125 F.4th 97 (4th Cir. 2025)	The district court procedurally erred in applying an aggravating role adjustment at §3B1.1 without first making "particularized findings" regarding the scope of the criminal activity or whether the criminal activity was "otherwise extensive," as required by the relevant conduct principles at §1B1.3.
Fifth Circuit	
United States v. Ahmadou, 159 F.4th 936 (5th Cir. 2025)	The district court did not err in denying a reduction for acceptance of responsibility under §3E1.1(a) because a defendant "eschews his responsibility–*i.e.*, his blameworthiness–for committing the offense" by filing a motion to dismiss before trial contending a defense of entrapment by estoppel.
United States v. Bell, 125 F.4th 662 (5th Cir. 2025)	For the acceptance of responsibility consideration of whether a person has withdrawn from "criminal conduct"—a term undefined in the guidelines—courts "may consider the 'seriousness' of the defendant's wrongful conduct under this factor to determine whether it outweighs evidence of acceptance of responsibility."
Seventh Circuit	
United States v. Barnes, 141 F.4th 882 (7th Cir. 2025)	A two-level aggravating role adjustment under §3B1.1(c)—that applies "if the defendant was an organizer, leader, manager, or supervisor in any criminal activity" that did not involve five or more participants and was not "otherwise extensive"—is proper where the defendant recruits a co-conspirator and coordinates logistical details.
Eighth Circuit	
United States v. Coffer, 154 F.4th 965 (8th Cir. 2025)	"The district court erred when it determined that §3C1.2 [Reckless Endangerment During Flight] applies anytime a defendant discards a loaded firearm in public while fleeing law enforcement." Here, "the possibility a member of the public could have found the gun"—without evidence of bystanders—and gun features "that might make it more attractive to a child [were] inadequate, as these facts demonstrate only a hypothetical or speculative risk."
United States v. Henry, 132 F.4th 1063 (8th Cir. 2025)	Consistent with cases from the First, Sixth, Tenth and Eleventh Circuits that have required "something more" than simply "possessing a firearm during flight," the district court properly applied §3C1.2 for reckless endangerment during flight where the defendant fled from "police carrying in his pocket a gun loaded with a chambered round."
Tenth Circuit	
United States v. Kay, 144 F.4th 1203 (10th Cir. 2025)	Pre-investigative conduct need not *actually* obstruct the investigation to satisfy the "likely to thwart" criteria at Application Note 1 to §3C1.1. "Hiding" a firearm in the trunk of a car under a cover and behind a spare tire is sufficient to warrant application of the §3C1.1 adjustment for obstruction of justice.

Compassionate Release

First Circuit

United States v. Duluc-Méndez, 156 F.4th 55 (1st Cir. 2025)	An argument that "substantial post-conviction rehabilitation" combines with other factors to provide "extraordinary and compelling reasons" for a sentence reduction is cognizable under 18 U.S.C. § 3582(c)(1)(A) and §1B1.13, and a court errs if it fails to consider the rehabilitation portion of this claim.

Second Circuit

United States v. Coonan, 143 F.4th 119 (2d Cir. 2025)	"[I]nmates serving federal prison time for conduct that occurred prior to November 1, 1987," may not seek a sentence reduction "under 18 U.S.C. § 3582(c)(1), as amended by the First Step Act of 2018." The "[Sentencing Reform Act]—including § 3582—doesn't apply to offenses" committed before its effective date.

Fourth Circuit

United States v. Washington, 161 F.4th 816 (4th Cir. 2025)	The district court did not abuse its discretion in denying a motion for compassionate release by giving more weight to certain 18 U.S.C. § 3553(a) factors than others. Such judgments are "quintessentially within the province of the district court's discretion," and the district court here "engaged in 'the necessary analysis for exercising that discretion.'"
United States v. Burleigh, 145 F.4th 541 (4th Cir. 2025)	In denying a motion for compassionate release, the district court correctly applied *United States v. McCoy*, 981 F.3d 271 (4th Cir. 2020), which neither disrupted the rule that "district courts have broad and 'independent discretion to determine whether there are extraordinary and compelling reasons to reduce a sentence,'" nor "increase[d] the burden on district courts to explain their decision."
United States v. Johnson, 143 F.4th 212 (4th Cir. 2025)	Sentencing courts have discretion to consider whether unwarranted sentencing disparities among codefendants constitute "extraordinary and compelling reasons" to grant compassionate release under §1B1.13(b)(5), as a reason "by itself or in combination with any other reasons outlined," if the other reasons "are similar in gravity."
United States v. Crawley, 140 F.4th 165 (4th Cir. 2025)	The recent amendment to §1B1.13 applies to motions decided after its effective date "irrespective of when the motion itself was filed." For motions based on §1B1.13(b)(6), serving "at least ten years of the term of imprisonment" means "service of a specified *time*, not a specified *sentence*," the latter of which may have adjustments for good-time credits.

Fifth Circuit	
United States v. Austin, 125 F.4th 688 (5th Cir. 2025)	Under *United States v. Escajeda*, 58 F.4th 184 (5th Cir. 2023), "[a] non-retroactive change in the law cannot constitute an extraordinary and compelling reason justifying sentence reduction under [18 U.S.C.] § 3592(c)(1)." While §1B1.13(b)(6) provides that courts may consider such changes, the Commission "cannot make retroactive what Congress made non-retroactive" and "'does not have the authority to amend the statute we construed' in *Escajeda*."
Sixth Circuit	
United States v. Bricker, 135 F.4th 427 (6th Cir. 2025)	The policy guidance in §1B1.13(b)(6) that allows nonretroactive changes in the law to be considered extraordinary and compelling reasons in narrowly circumscribed situations is "invalid." The Commission "does not have the authority" to overrule *United States v. McCall*, 56 F.4th 1048 (6th Cir. 2022) (en banc), which reached a contrary interpretation, and allowing §1B1.13(b)(6) to stand would "effectively negate" 1 U.S.C. § 109—"Congress's clear limitation on retroactively applying new legislation."
Seventh Circuit	
United States v. Black, 131 F.4th 542 (7th Cir. 2025)	Section 1B1.13(b)(6), which allows certain changes in law to be considered "extraordinary and compelling reasons" for compassionate release, conflicts with the First Step Act's prospective-only "anti-stacking" amendment to 18 U.S.C. § 924(c). Accordingly, circuit precedent holding that the anti-stacking amendment "cannot serve as the basis for a defendant's eligibility by itself or in combination with other factors" remains binding.
Eighth Circuit	
United States v. Chachanko, 162 F.4th 894 (8th Cir. 2025)	Under §1B1.13(b)(6), the requirement that the defendant "has served at least 10 years of the term of imprisonment" to be eligible for a sentence reduction refers to the time served on the "unusually long" sentence, not the total time in prison for multiple sentences.
United States v. Rogge, 141 F.4th 902 (8th Cir. 2025)	Section 3582(c) of title 18, permitting defendants themselves to file a motion for compassionate release, "applies only to offenses committed on or after the effective date of the [Sentencing Reform Act]."
Ninth Circuit	
United States v. Bryant, 144 F.4th 1119 (9th Cir. 2025)	An individual's youth at the time of the offense "does not qualify as 'extraordinary and compelling' under §1B1.13 of the Sentencing Guidelines" because it is "not 'similar in gravity' to the circumstances in [§1B1.13(b)(1)–(4)], which arise after a defendant has been sentenced." An individual's "sentencing disparity with a codefendant is not 'similar in gravity' to the

	circumstances in [§1B1.13(b)(1)–(4)]," and "[t]he compassionate release statute is not a tool for eliminating sentencing disparities based on legitimate guilty pleas."

Criminal History

Third Circuit

United States v. Martinez, 137 F.4th 858 (3d Cir. 2025)	To promote judicial economy, "when a defendant is entitled to seek the benefit of a retroactive Guidelines provision," such as §4C1.1, "by filing a motion under [18 U.S.C.] § 3582(c)(2)," the appellate court may, on direct appeal, "exercise its discretion under [28 U.S.C.] § 2106 to vacate the defendant's sentence and remand for resentencing."
United States v. Milchin, 128 F.4th 199 (3d Cir. 2025)	Under the 2023 *Guidelines Manual*, the exclusions from zero-point offender eligibility in §4C1.1(a)(10)—aggravating role and continuing criminal enterprise—are to be read disjunctively, meaning that §4C1.1 "makes ineligible any defendant that *either* received an aggravating role adjustment *or* was engaged in a continuing criminal enterprise."

Fourth Circuit

United States v. Nixon, 130 F.4th 420 (4th Cir. 2025)	The district court abused its discretion—rendering the sentence procedurally unreasonable—when it relied on dissimilar uncharged conduct to depart to a higher criminal history category and failed to apply "an incremental approach" under §4A1.3 in selecting the higher category "without even acknowledging other criminal history categories on the way."
United States v. Edwards, 128 F.4th 562 (4th Cir. 2025)	By its plain language, North Carolina's special probation statute, which includes a suspended term of imprisonment "and *in addition* require[s] . . . a period or periods of imprisonment," establishes two separate prison terms that should be added together to calculate criminal history points under §4A1.2(k).

Fifth Circuit

United States v. Garza, 127 F.4th 954 (5th Cir. 2025)	Under §4A1.1, a "prior" sentence includes one "issued after the original sentence but before a subsequent resentencing proceeding," as most circuits have concluded.

Sixth Circuit

United States v. Hanson, 124 F.4th 1013 (6th Cir. 2025)	For the purposes of §4C1.1(b)(3), "courts are not strictly limited to considering the enumerated factors under . . . §2B1.1 n.4(F) when determining whether a defendant caused substantial financial hardship." The list of factors is non-exhaustive, and the financial hardship an individual caused to his victims does not need to "fall perfectly" within the factors to be considered substantial.

Eighth Circuit

United States v. de la Cruz, 135 F.4th 1127 (8th Cir. 2025)	Under the 2023 *Guidelines Manual*, "to be eligible for the zero-point-offender reduction [under §4C1.1], a defendant must show *both* that he did not receive an enhancement under §3B1.1 *and* that he was not engaged in a continuing criminal enterprise."
United States v. Syphax, 127 F.4th 746 (8th Cir. 2025)	Application Note 11 to §4A1.2 does not apply when calculating a defendant's criminal history score in a case involving "separate, unrelated [prior] sentences" and multiple revocations of those sentences based on the same conduct. Application Note 11 applies only if the state court ordered "*a* revocation." With this holding, the Eighth Circuit aligns with the Tenth Circuit, and it splits with the Sixth and Ninth Circuits.

Ninth Circuit

United States v. Gonzalez-Loera, 135 F.4th 856 (9th Cir. 2025)	A defendant is "ineligible for relief under §4C1.1 [under the 2023 *Guidelines Manual*] if he *either* received an [aggravating role] adjustment under §3B1.1 *or* engaged in a continuing criminal enterprise."
United States v. Carver, 132 F.4th 1158 (9th Cir. 2025)	*Kisor v. Wilkie*, 588 U.S. 558 (2019), did not overrule circuit precedent holding—based on "traditional tools of interpretation, not reliance on the commentary"—that "convictions set aside under section 1203.4 of the California Penal Code are not expunged for purposes of section 4A1.2(j) of the Guidelines."

Tenth Circuit

United States v. Davis, 128 F.4th 1352 (10th Cir. 2025)	A "conviction for underage drinking is 'similar to' a juvenile status offense such that it cannot be included in [a] criminal history score" under §4A1.2(c)(2).
United States v. Caldwell, 128 F.4th 1170 (10th Cir. 2025)	State offenses that occurred during the course of, but did not relate to, the instant offense of failure to register as a sex offender are not deemed relevant conduct simply because of the temporal overlap and therefore were properly assessed as prior sentences for purposes of calculating criminal history.

Drug Offenses

Third Circuit

United States v. Moss, 129 F.4th 187 (3d Cir. 2025)	When determining the offense level for a methamphetamine conviction under §2D1.1, some degree of estimation by a sentencing court as to the purity of unseized drugs based on the purity of seized drugs is reasonable, provided the court favors "the more conservative estimate when purity levels vary."

Fifth Circuit	
United States v. McGuire, 151 F.4th 307 (5th Cir. 2025)	The district court erred in relying on a summary chart to find the drug weight attributable to the defendant where the chart was "devoid of explanation of the underlying [drug quantity] calculations" and the PSR otherwise contained "no trustworthy mathematical foundation" on which to base the calculations. "[T]he district court may reach the same conclusion" on remand but it must include a "reasoned explanation."
Seventh Circuit	
United States v. Hodge, 138 F.4th 1021 (7th Cir. 2025)	"[T]he district court's silence on the applicability of the statutory safety valve precludes us from knowing whether it ignored, or considered and rejected, one of [the defendant's] principal mitigating arguments," requiring remand for resentencing.
Eighth Circuit	
United States v. Armond, 135 F.4th 626 (8th Cir. 2025)	The district court did not plainly err in denying the safety valve reduction to a defendant who "neither participated in a proffer interview nor disclosed any information he had concerning his offense." The defendant's "bald assertion" that "he never had any information to provide . . . incorrectly attempts to shift the burden to the Government to disprove his claim" and "would render [] § 5C1.2(a)(5)'s 'all information' requirement a nullity."
United States v. Salinas, 132 F.4th 1083 (8th Cir. 2025)	The district court "did not err in applying the willful blindness doctrine" under §2D1.1(b)(13) for the defendant's "marketing or representing pills containing fentanyl as oxycodone pills." The supporting facts met the "two basic requirements" for willful blindness: (1) the defendant "subjectively believed that a high probability existed" that the fentanyl he possessed was not oxycodone, and (2) he "acted to avoid confirming that fact."
Ninth Circuit	
United States v. Keller, 142 F.4th 645 (9th Cir. 2025)	"Because the Commission expressly incorporated the Drug Conversion Tables into the text of §2D1.1(c) and adopted them using the procedures required for enacting the Guidelines themselves," these tables "should be regarded as part of the Guidelines, and no further [*Kisor v. Wilkie*, 588 U.S. 558 (2019),] inquiry is required before a district court may apply the drug ratios."
Eleventh Circuit	
United States v. Dorelus, 154 F.4th 1349 (11th Cir. 2025)	Denial of safety valve relief under 18 U.S.C. § 3553(f)(2) and §5C1.2(a)(2) based on the same firearm possessed "in connection with" a controlled substance offense conviction under 21 U.S.C. § 841(a)(1) and forming the basis of a separate 18 U.S.C. § 924(c)(1)(A) count of conviction "was not 'punishment' for double jeopardy purposes."

Economic Crimes

Third Circuit

United States v. Lucidonio, 137 F.4th 177 (3d Cir. 2025)	Under §2T1.9(b)(2), conduct "intended to encourage" persons "other than or in addition to co-conspirators" to defraud the IRS is not limited to actions "explicitly directing" another to impede the IRS. The enhancement was nonetheless inapplicable where employees knew of and acquiesced to the payroll tax fraud scheme perpetrated by defendant employers and thus were not persons "other than or in addition to co-conspirators."
United States v. Barkers-Woode, 136 F.4th 496 (3d Cir. 2025)	Application of §2B1.1(b)(1) based on intended loss (to a defendant sentenced in 2022) was reversible error pursuant to circuit precedent holding that "loss" means actual—not intended—loss. In addition, the term "victim" unambiguously includes victims of identity theft without requiring deference to the definition at Application Note 4(E) to §2B1.1.

Fourth Circuit

United States v. Sanders, 146 F.4th 372 (4th Cir. 2025)	The "sophisticated means" enhancement at §2B1.1(b)(10)(C) was properly applied based on the framework in *Kisor v. Wilkie*, 588 U.S. 558 (2019), where: (1) the phrase is genuinely ambiguous; (2) the Sentencing Commission's interpretation of that phrase in the commentary at Application Note 9(B) falls within the "zone of ambiguity"; and (3) "[t]he character and context of the commentary entitle it to controlling weight."

Ninth Circuit

United States v. Rodriguez, 162 F.4th 1016 (9th Cir. 2025)	The plain text of §2B1.1(b)(11)(A) "requires that the offense at issue involved 'the possession' of an 'authentication feature,'" but it "does not require proof of a particular mens rea" for the enhancement to apply.
United States v. Yafa, 136 F.4th 1194 (9th Cir. 2025)	Under the 2023 *Guidelines Manual*, Application Note 3(B) to §2B1.1—instructing courts to use a defendant's gain resulting from the offense as an alternative measure for calculating loss where loss cannot reasonably be determined—is entitled to deference under *Kisor v. Wilkie*, 588 U.S. 558 (2019).

Eleventh Circuit

United States v. Martinez, 156 F.4th 1185 (11th Cir. 2025)	For the purposes of determining "market value" of a smuggled work of art containing ivory under §2Q2.1, the sale price of an object listed by the defendant, an experienced art dealer, could be indicative or probative of a reasonable estimate of the difficult-to-ascertain market value of the object even if it is not necessarily reflective of its fair market retail price.

United States v. Horn, 129 F.4th 1275 (11th Cir. 2025)	"Because courts must consider both actual harm and intended harm" under §1B1.3(a)(3), "courts must consider both 'actual loss' and 'intended loss,'" under §2B1.1. Thus, the text of §2B1.1(b)(1)(A) is not ambiguous, and the court need not turn to the commentary to determine the definition of "loss." Moreover, Amendment 827, a "clarifying amendment" that applies here, further supports the conclusion that "loss" is the greater of actual or intended loss.

Firearms

Third Circuit

United States v. Harris, 144 F.4th 154 (3d Cir. 2025)	The temporary prohibition under 18 U.S.C. § 922(g)(3) of the possession of firearms by unlawful users of controlled substances does not violate the Second Amendment because drug use results in an altered mental state likely to pose an increased risk of physical danger to others if the user is armed—a concept supported by history and tradition.
United States v. Ashe, 130 F.4th 50 (3d Cir. 2025)	The district court's finding that the defendant constructively possessed a firearm that was found in the trunk of his vehicle was clearly erroneous because "surrounding circumstances," including that the defendant was incarcerated when the firearm was discovered, had not accessed the vehicle for six months, and the vehicle was stored on a lot with minimal security, "undercut the significance of [his] ownership of the vehicle."
United States v. Quailes, 126 F.4th 215 (3d Cir. 2025)	Defendants on state supervised release—including a sentence of parole or probation—do not have a Second Amendment right to possess firearms. Because this nation's history and tradition support "disarming convicts still serving a criminal sentence," 18 U.S.C. § 922(g)(1) is constitutional as applied to such defendants.

Fifth Circuit

United States v. Giglio, 126 F.4th 1039 (5th Cir. 2025)	"Because the Constitution allows the government to disarm individuals who are carrying out criminal sentences, [18 U.S.C.] § 922(g)(1) is constitutional as applied" to individuals on supervised release.

Eighth Circuit

United States v. Bernard, 136 F.4th 762 (8th Cir. 2025)	Under *United States v. Rahimi*, 602 U.S. 680 (2024), 18 U.S.C. § 922(g)(9) "is constitutional in at least some of its applications and thus not unconstitutional on its face" given the "historical tradition of regulating firearms possession by those who present a credible threat of safety to others."

Ninth Circuit

United States v. Petrushkin, 142 F.4th 1241 (9th Cir. 2025)	The cross reference at §2K2.1(c)(1) "applies when a defendant possesses a firearm in a manner that permits an inference that it facilitated or potentially facilitated . . . felonious

	conduct," not when an individual merely "possesse[s] a firearm with knowledge that someone else . . . would use or possess the firearm in connection with another offense."
United States v. Vlha, 142 F.4th 1194 (9th Cir. 2025)	"The text of the Second Amendment does not cover the conduct regulated by [18 U.S.C.] § 922(a)(1)(A)"—prohibiting the manufacturing of firearms for public sale or distribution without a license—because it "does not meaningfully constrain would-be purchasers from obtaining firearms."
United States v. Duarte, 137 F.4th 743 (9th Cir. 2025) (en banc)	Under *United States v. Rahimi*, 602 U.S. 680 (2024), 18 U.S.C. § 922(g)(1) is constitutional as applied to individuals convicted of non-violent felonies. With this holding, the Ninth Circuit aligns with the Fourth, Eighth, Tenth, and Eleventh Circuits but splits with the Third Circuit.
United States v. Kurns, 129 F.4th 589 (9th Cir. 2025)	An individual's execution of Bureau of Alcohol, Tobacco, Firearms and Explosives transfer documents "supports an inference of [his] constructive possession" of a firearm when counting the number of firearms involved in an offense under §2K2.1(b)(1).
Tenth Circuit	
United States v. Gordon, 137 F.4th 1153 (10th Cir. 2025)	Under *United States v. Rahimi*, 602 U.S 680 (2024), 18 U.S.C. § 922(g)(8)(C)(ii)—which prohibits firearm possession by any person "subject to a court order that . . . by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against [an] intimate partner or child that would reasonably be expected to cause bodily injury"—is facially constitutional "[b]ecause there are at least some circumstances in which (C)(ii) can be constitutionally applied to a defendant's conduct."
Eleventh Circuit	
United States v. Gaines, 154 F.4th 1317 (11th Cir. 2025)	To determine whether an individual is prohibited under 18 U.S.C. § 922(g)(1) from possessing a firearm after having been convicted of a "crime punishable by imprisonment for a term exceeding one year," the court must look to the length of imprisonment to which the individual defendant was potentially subject, rather than the term generally authorized by the statute of prior conviction or a term of confinement in a community-corrections or other non-carceral program.
United States v. Dubois, 139 F.4th 887 (11th Cir. 2025)	*United States v. Rahimi*, 605 U.S. 680 (2024), did not abrogate circuit precedent holding that 18 U.S.C. § 922(g)(1) is constitutional under the Second Amendment because *Rahimi* deemed prohibitions on the possession of firearms by felons and the mentally ill—categories of persons thought by a legislature to present a special danger of misuse—to be presumptively lawful.

United States v. James, 135 F.4th 1329 (11th Cir. 2025)	The §2K2.1(b)(6)(B) sentencing enhancement for use of a firearm "in connection with" another felony offense is broad but not ambiguous, thus Application Note 14(B) is not entitled to deference under *Kisor v. Wilkie*, 588 U.S. 558 (2019). Under the plain meaning of the guideline, a person possesses a firearm "in connection with" another offense if the firearm possession is contextually, causally, or logically related to that offense.

First Step Act of 2018

Fifth Circuit

United States v. Duffey, 148 F.4th 784 (5th Cir. 2025) (per curiam)	Vacating and remanding for resentencing consistent with *Hewitt v. United States*, 606 U.S. 419 (2025), which held that all first-time offenders "who appear for sentencing after the First Step Act's enactment date—including those whose previous [18 U.S.C.] § 924(c) sentences have been vacated and who thus need to be resentenced—are subject to the Act's revised penalties."

Sixth Circuit

United States v. Dale, 156 F.4th 757 (6th Cir. 2025)	Because the First Step Act's "section 404(b)'s sentence-reduction authority encompasses cases falling under the sentencing-package doctrine . . . a district court has the discretion to reduce a sentence imposed for a non-covered offense when it is part of a sentencing package with a covered offense." The district court had the discretion to reduce the individuals' "sentences for their homicide convictions, for which they were convicted and sentenced concurrently with the covered drug-conspiracy conviction."

Seventh Circuit

United States v. Johnson, 132 F.4th 1012 (7th Cir. 2025)	"[U]nder the First Step Act, a defendant may seek a reduction of a sentence imposed upon revocation of supervised release when the underlying crime from which the supervised release stems is a 'covered offense.'"

Relevant Conduct

Third Circuit

United States v. Josey, 155 F.4th 234 (3d Cir. 2025)	When calculating the lookback period under §4A1.2(e), the phrase "commencement of the instant offense" "unambiguously means the start of the conduct constituting the offense of conviction" and, therefore—despite the text of Application Note 8—does not include relevant conduct.

Eighth Circuit

United States v. Myore, 142 F.4th 606 (8th Cir. 2025)	Application of sentencing enhancements to a robbery conviction despite a jury acquittal on related counts of carjacking and assault were proper because "a jury's acquittal establishes only that the government failed to prove an essential element of an offense beyond a

	reasonable doubt," and while "[t]hese constitutional issues are the subject of ongoing debate, . . . our panel is bound by . . . controlling Eighth Circuit precedent."

Restitution

Third Circuit

United States v. Shvets, 154 F.4th 74 (3d Cir. 2025)	The Mandatory Victims Restitution Act allows a district court to impose hybrid restitution orders—that is, orders that combine amounts for which a defendant is responsible through a combination of apportioned and joint and several liability. "[T]he language of [18 U.S.C.] § 3664(h), which grants sentencing judges the wide discretion to choose between apportionment and joint and several liability, reflects a congressional intent to preserve the historic flexibility to combine those options."
United States v. Cammarata, 145 F.4th 345 (3d Cir. 2025)	Classes defined in hundreds of certified class actions who were defrauded by a defendant's scheme, resulting in individual harm to a multitude of class members, qualify as victims under the Mandatory Victims Restitution Act to whom restitution was ordered to be paid.

Fifth Circuit

United States v. Lucas, 134 F.4th 810 (5th Cir. 2025)	"[G]iven that restitution orders under the [Victim Witness Protection Act (VWPA)] are not subject to the same statutory limits as the [Mandatory Victims Restitution Act], if a defendant agrees to allow the district court to determine the restitution under the VWPA, he cannot appeal that order as exceeding the statutory maximum."

Sixth Circuit

United States v. Clay, 162 F.4th 757 (6th Cir. 2025)	Circuit precedent and the text of the Mandatory Victims Restitution Act illustrate that "medically necessary claims are not a 'loss' and thus cannot be included in a restitution order . . . [because] regardless of fraudulent conduct, [the company's] insurance would have covered medically necessary claims."
United States v. Fike, 140 F.4th 351 (6th Cir. 2025)	The Mandatory Victims Restitution Act permits courts to add prejudgment interest as part of a restitution award when needed to more fully compensate a victim's losses. "Because of the time value of money, [fraudulently acquired] funds' value at sentencing [may have decreased] from their value at the time of the fraud," and interest "reflects that change in value."

Eighth Circuit

United States v. Nesdahl, 140 F.4th 474 (8th Cir. 2025)	A conviction for sexual exploitation of children under 18 U.S.C. § 2251(a) does not qualify as "trafficking in child pornography" as required by 18 U.S.C. § 2259(b)(2) for the assessment of restitution.

Eleventh Circuit

United States v. Green, 158 F.4th 1347 (11th Cir. 2025)	A legislative amendment resolving a circuit conflict with respect to the statutory interpretation of the Mandatory Victims Restitution Act (MVRA) clarified that the MVRA allows restitution to compensate the family members of a deceased victim; the district court, therefore, had authority to order a codefendant in a VICAR and RICO conspiracy case to pay restitution to a murder victim's father.
United States v. Mims, 143 F.4th 1311 (11th Cir. 2025)	After the defendant's probationary sentence had been otherwise discharged and the case closed, "the district court had ancillary jurisdiction to enforce the [unsatisfied] restitution order" lawfully entered as part of the criminal sentence.
United States v. Sotelo, 130 F.4th 1229 (11th Cir. 2025)	Where the record "supports a reasonable estimate of future costs to victims of child pornography who are currently unaware of the trafficked images, no language in [18 U.S.C.] § 2259 nor case law prevents a district court from properly ordering restitution."

Sentencing Procedure

First Circuit

United States v. Rodríguez, 146 F.4th 48 (1st Cir. 2025)	"[W]hen there are two competing Guidelines ranges" and a sentencing court "does not definitively decide between" them, a reviewing court "cannot appropriately apprehend the basis for the sentence" or ensure that the sentence was unaffected by an erroneously calculated guidelines range "without a clear statement from the sentencing court illustrating that the sentence imposed is verily unaffected by the Guidelines."
United States v. Maldonado-Negroni, 141 F.4th 333 (1st Cir. 2025)	A district court's unelaborated response—here, a brief "yes" when asked if it "would have imposed the same sentence regardless" of whether a supervised release violation was "a Grade A violation or Grade B violation"—is "insufficient to show that the sentence imposed was detached from [an] erroneous Guidelines range."

Second Circuit

United States v. Orena, 145 F.4th 304 (2d Cir. 2025)	After vacatur of one count of conviction on a 28 U.S.C. § 2255 motion, *de novo* "resentencing would have been 'an empty formality'" where the habeas judge had just considered the "same information and arguments" and 18 U.S.C. § 3553(a) factors in denying the defendant's parallel motion for a sentence reduction under 18 U.S.C. § 3582(c).
United States v. Sterkaj, 138 F.4th 95 (2d Cir. 2025)	Circuit precedent holding that courts may not increase a sentence based on a defendant's failure to cooperate remains binding, notwithstanding intervening Supreme Court decisions, including *Concepcion v. United States*, 597 U.S. 481 (2022).

United States v. Fletcher, 134 F.4th 708 (2d Cir. 2025)	"[A] district court is permitted to confer *ex parte* and off-the-record with a probation officer to seek advice or analysis as long as the officer reveals no new facts that bear on sentencing." If, however, "the officer provides new factual information, the district court may not rely on those facts unless they are first disclosed to the parties and each side has had a reasonable opportunity to comment," pursuant to Fed. R. Crim. P. 32(i)(1)(B).

Third Circuit

United States v. Harmon, 150 F.4th 197 (3d Cir. 2025)	Because §6A1.3(a)'s due process protections apply to motions for sentence reductions under 18 U.S.C. § 3582(c)(2), a movant seeking retroactive relief must be afforded notice and an opportunity to contest new information—*i.e.*, information relied on for the first time to find material facts.
United States v. Montas, 145 F.4th 383 (3d Cir. 2025)	The district court violated its obligation under Fed, R Crim. P. 32(i)(1)(C) to provide notice to the defendant that it intended to rely on information in a PSR from a prior federal prosecution for the purpose of determining the appropriate sentence.
United States v. Suarez, 146 F.4th 322 (3d Cir. 2025)	Where a retroactive amendment to the guidelines lowers a defendant's sentencing range but a district court declines to reduce his sentence pursuant to an 18 U.S.C. § 3582(c)(2) motion, the previously imposed procedurally-sound sentence does not constitute an upward variance from the amended guideline.
United States v. Guyton, 144 F.4th 449 (3d Cir. 2025)	At sentencing for federal firearm possession and drug distribution convictions, the time a defendant previously served in state pretrial detention—later credited to his prior sentence for the state drug offense—was part of a "term of imprisonment" for the purpose of determining whether the offense was a "serious drug felony" warranting application of recidivist enhancements under 21 U.S.C. §§ 802(58) and 841(b).

Fourth Circuit

United States v. Smith, 157 F.4th 366 (4th Cir. 2025)	A district court violates Fed. R. Crim. P. 11 when it neglects to advise the defendant of its authority to depart from the sentencing guidelines and fails to address an appellate waiver during the plea colloquy. Yet, unless a reasonable probability exists that the defendant would not have pleaded guilty had the rule not been violated, the error is harmless.
United States v. Smith, 134 F.4th 248 (4th Cir. 2025)	An appeal waiver is "not knowingly and intelligently made," and is thus invalid, when the district court fails to inform the defendant of his "right to appeal his conviction *and sentence*" under Rule 11. The "proper remedy . . . is to sever the appeal waiver from the remainder of the plea agreement and relieve the defendant of the waiver."
United States v. Brown, 136 F.4th 87 (4th Cir. 2025)	Harmless error review applies to errors under *Erlinger v. United States*, 602 U.S. 821 (2024). Here, the *Erlinger* error, committed in violation of the Fifth and Sixth Amendments, was both that the indictment failed to allege that predicate violent felonies were "committed on

	occasions different from one another"—an element of the sentencing enhancement under the Armed Career Criminal Act—and that the court failed to advise the defendant that he had a right to have that element found by a jury, but the error was harmless.
United States v. Barrett, 133 F.4th 280 (4th Cir. 2025)	The district court "failed to give appropriate retroactive effect to Amendment 821" when it reduced the defendant's criminal history score but disregarded whether the reduction affected her eligibility for a two-level adjustment under what is now §2D1.1(b)(18). The "amended guidelines range" under §1B1.10(b)(1) is a product of both the criminal history category and the offense level, and courts must consider the amendment's impact on both.
United States v. Notgrass, 130 F.4th 129 (4th Cir. 2025)	An appeal from a sentence of probation is not barred when the appellate waiver covers only "any sentence of imprisonment, fine, and term of supervised relief" because a term of probation is a substitute for imprisonment and is thus a distinct and separate punishment category.

Fifth Circuit

United States v. Sanchez-Zurita, 161 F.4th 927 (5th Cir. 2025)	In a case where the defendant pled open, the government "breached its agreement" although informal and communicated via e-mail to "'state [it] would be satisfied with a guideline sentence'" when the court inquired about an upward variance and the government took no position.
United States v. Trotter, 157 F.4th 767 (5th Cir. 2025)	Exercising its discretion to correct a plain error, the court vacated a sentence, finding the defendant's substantial rights were affected at sentencing when the prosecutor, "although prefac[ing] his remarks by stating that he was not requesting an upward variance," "criticized the very Guidelines range it had agreed to in the plea agreement, and where all other parties, including probation, recommended a bottom-of-range sentence."

Sixth Circuit

United States v. Shaw, 139 F.4th 548 (6th Cir. 2025)	"[W]hen a defendant argues that the oral sentence conflicts with the written judgment, the defendant is challenging the *written judgment*, not the sentence itself." Thus, the appeal is not barred by a waiver of "the right to appeal any sentence . . . so long as it is within the applicable guideline range."

Seventh Circuit

United States v. Weiss, 153 F.4th 574 (7th Cir. 2025)	"The district court did not abuse its discretion . . . by refusing to delay sentencing until after upcoming guidelines changes went into effect," given the uncertainty of whether a Guideline will go into effect.
United States v. Bell, 139 F.4th 591 (7th Cir. 2025)	Under 18 U.S.C. § 3564(a), a court lacks authority to impose a sentence below the mandatory minimum by running the federal sentence concurrent to a related but discharged state sentence.

Eighth Circuit

United States v. Wright, 163 F.4th 469 (8th Cir. 2025)	A presidential commutation of a defendant's sentence does not moot a motion for a further sentence reduction under 18 U.S.C. § 3582(c)(1)(A). In so holding, the Eighth Circuit aligns with the Sixth Circuit and splits with the Fourth Circuit.
United States v. Sledd, 148 F.4th 988 (8th Cir. 2025)	"[N]o bright-line rules" establish whether drug conspiracies and possession are "always 'committed on occasions different from one another'" for purposes of sentencing a defendant under 18 U.S.C. § 924(e), the Armed Career Criminal Act.
United States v. Johnson, 151 F.4th 978 (8th Cir. 2025)	"There was possibly no error and certainly no plain error when the government here used the phrases 'no less than 25 years,' [] 'restrict its recommendation to 25 years,' [] or 'at least minimally justice,' [] when these phrases are not in conflict with the government's obligation [under the plea agreement] to recommend a sentence of 25 years."
United States v. Smith, 146 F.4th 615 (8th Cir. 2025)	While *Tapia v. United States*, 564 U.S. 319 (2011), violations are unlikely "when a district court makes fleeting references to rehabilitation and otherwise imposes a sentence based on other [18 U.S.C.] § 3553(a) factors," the district court plainly erred where it "repeatedly focused on [the defendant's] addiction and need for treatment" and "expressly linked [his] need to complete a rehabilitation program with the length of the sentence it selected."
United States v. Cottier, 142 F.4th 1148 (8th Cir. 2025)	The government did not breach the plea agreement where "a request or position taken in a sentencing memorandum filed before the sentencing hearing [was] *not adopted by the government as its position at sentencing*."
United States v. De Aquino, 142 F.4th 628 (8th Cir. 2025)	Where "the district court constructively accepted the plea agreement, the failure to expressly announce its acceptance was not a clear or obvious legal error."

Tenth Circuit

United States v. Hardy, 149 F.4th 1153 (10th Cir. 2025)	Reliance on the hearsay statements of a confidential source (CS) to determine the applicable drug quantity guideline "was clearly erroneous because they lacked the necessary indicia of reliability we require for out-of-court statements"—specifically, (1) the record contradicted the CS's hearsay statements; (2) the government provided no evidence beyond the CS's "say-so;" (3) the corroboration cited in the PSR was never presented to the court; and (4) the assertion that the CS had previously provided reliable information was insufficient corroboration.
United States v. Guevara-Lopez, 147 F.4th 1174 (10th Cir. 2025)	The sentence imposed was substantively unreasonable in part because "the district court insufficiently justified the significant upward variance," particularly in light of Judiciary Sentencing Information (JSIN) data. The context and specificity of the JSIN statistics in this case "sufficiently narrowed the comparator-defendants so that a district court would assist

	[appellate] review by meaningfully commenting on the unwarranted sentence-disparities factor before imposing such a large variance."
United States v. Gutierrez, 133 F.4th 999 (10th Cir. 2025)	The right to a speedy trial does not extend to postconviction sentencing, as "harms suffered *after* the defendant has lost his presumption of innocence"—such as the defendant's claim that the delay deprived him of an argument that could have yielded a shorter sentence—"are irrelevant under the Speedy Trial clause."

Eleventh Circuit

United States v. Day, 162 F.4th 1136 (11th Cir. 2025)	Title 18 U.S.C. § 3553(e), granting a district court's authority to sentence a defendant below the statutory minimum on one count based on a government motion recognizing substantial assistance, does not permit the court to impose a sentence below the mandatory minimum penalty on another count of conviction.
United States v. Perez, 160 F.4th 1193 (11th Cir. 2025)	Title 18 U.S.C. § 3553(e), granting district courts authority to sentence a defendant below the statutory mandatory minimum sentence based on a government motion recognizing his substantial assistance, does not eliminate a mandatory minimum penalty or permit the court to impose a further-reduced sentence based on non-assistance factors.
United States v. Rivers, 134 F.4th 1292 (11th Cir. 2025)	"[W]e review *Erlinger* [*v. United States*, 602 U.S. 821 (2024)] errors for harmlessness." Here, the district court's error in sentencing the defendant under the Armed Career Criminal Act was not harmless because it is not clear "that the jury would have found unanimously and beyond a reasonable doubt" that his prior serious drug offenses were committed on different occasions as required under *Erlinger*.
United States v. Davis, 130 F.4th 1272 (11th Cir. 2025)	Because there is a right to counsel at sentencing, "there is also a correlative right to proceed *pro se* at sentencing if a defendant has clearly and unequivocally sought to do so," and the court has made an inquiry under *Faretta v. California*, 422 U.S. 806 (1975). The right of self-representation can be invoked after trial but before sentencing.

Sex Offenses

Second Circuit

United States v. Bullock, 152 F.4th 108 (2d Cir. 2025)	In view of the "separate occasions" analysis in *Wooden v. United States*, 595 U.S. 360 (2022), the district court "appropriately applied § 2G2.2(b)(5)'s pattern enhancement" for "two or more separate instances of the sexual abuse" where the sexual abuse of two children on the same day was "separated by time and by intervening non-criminal conduct," occurred in "two different rooms," and reflected "two distinct choices to abuse two different children."
United States v. Darrah, 132 F.4th 643 (2d Cir. 2025)	Section 2G2.2(b)(3)(B)—which provides for a 5-level increase if the defendant distributed child pornography "in exchange for any valuable consideration, but not for pecuniary gain"—"considers whether a mutual understanding arose between two or more persons regarding

	their respective rights and duties." The district court erred in applying §2G2.2(b)(3)(B) based on the defendant's "unilateral expectations absent any assenting language or conduct."
Third Circuit	
United States v. Wise, 134 F.4th 745 (3d Cir. 2025)	"[A] smartphone counts as a computer" under the unambiguous text of the §2G2.2(b)(6) sentencing enhancement for using a computer "for the possession, transmission, receipt, or distribution" of material involving sexual exploitation of a minor because a smartphone stores and communicates information, accesses the internet, and hosts software.
Fourth Circuit	
United States v. Avila, 134 F.4th 244 (4th Cir. 2025)	The district court procedurally erred in applying the cross reference at §2G2.2(c), which applies if the offense involved "causing . . . a minor to engage in sexually explicit conduct" to produce a visual depiction of that conduct, when it failed to make a factual finding that the defendant's offer of money "caused" a victim to make sexually explicit content "after and in response" to his direct request.
United States v. Fucito, 129 F.4th 289 (5th Cir. 2025)	Section 2G2.2(b)(3)(B) "does not require a defendant to actually receive 'valuable consideration' in exchange for distributing child pornography." Additionally, a court does not err "by counting duplicate images for sentencing enhancement purposes" under §2G2.2(b)(7).
Sixth Circuit	
United States v. Ramirez Gomez, 129 F.4th 954 (6th Cir. 2025)	Section 2A3.5(b)(1)(C), which provides for an 8-level enhancement where an individual (1) failed to register as a sex offender and (2) "committed . . . a sex offense against a minor," does not require a conviction for the sex offense against a minor. "Courts may apply . . . §2A3.5(b)(1)(C) based on a judicial determination, by a preponderance of the evidence, that the defendant 'committed . . . a sex offense against a minor' while in failure to register status."
Eighth Circuit	
United States v. Womack, 154 F.4th 584 (8th Cir. 2025)	The district court "did not err by applying a base offense level of 34, as provided in §2G1.1(a)," to a defendant convicted under 18 U.S.C. § 1591(a). "[W]hen § 2G1.1(a) describes § 1591(b)(1) as the 'offense of conviction'" that triggers a specific base offense level, "it refers to those § 1591(a) offenses that are punishable pursuant to § 1591(b)(1)."
Eleventh Circuit	
United States v. Kluge, 147 F.4th 1291 (11th Cir. 2025)	The term "images" in §2G2.2(b)(7)'s graduated enhancement scheme "unambiguously dictates that each video frame containing child pornography counts as one image;" therefore, where the text of the guideline has a clear, ordinary meaning, the court declined to defer to Application Note 6(B)(ii), which provides that each video "shall be considered to have 75 images."

Supervised Release

First Circuit

United States v. García-Oquendo, 144 F.4th 66 (1st Cir. 2025)	"Rule 32.1(b)(2)(C)'s limited confrontation right applies to the entirety of [a supervised release] revocation proceeding, both in the determination of whether the releasee has violated the conditions of supervised release and in the determination of whether to revoke supervised release and impose a term of imprisonment." With this holding the First Circuit aligns with the Fourth Circuit but splits with the Fifth, Eighth, and Tenth Circuits.

Second Circuit

United States v. Maiorana, 153 F.4th 306 (2d Cir. 2025) (en banc)	Overruling circuit precedent, the Second Circuit held that "a sentencing court intending to impose non-mandatory conditions of supervised release, including the 'standard' conditions described in §5D1.3(c), must notify the defendant during the sentencing proceeding; if the conditions are not pronounced, they may not later be added to the written judgment."
United States v. Fernandez, 152 F.4th 124 (2d Cir. 2025)	Section 3143(a)(1) of title 18 "authorizes detention of a defendant charged with a supervised release violation pending revocation proceedings" because, pursuant to that statute, "such a defendant has been 'found guilty of an offense' based on his underlying conviction and is awaiting . . . execution' of the portion of his sentence that authorizes proceedings to determine potential sanctions for violating the terms of supervised release."
United States v. Poole, 133 F.4th 205 (2d Cir. 2025)	The court upheld a condition of supervised release requiring the defendant to submit to suspicionless searches, concluding that the district court conducted "precisely the type of 'individualized assessment' [the circuit's] precedent requires." The record "amply supports" imposition of the condition and the district court properly considered the sentencing purposes of "deterrence, public protection, and rehabilitation."

Fourth Circuit

United States v. Williams, 130 F.4th 177 (4th Cir. 2025)	A special condition of supervised release providing that the probation officer, "in consultation with the treatment provider, will supervise [the defendant's] participation in the program (provider, location, modality, duration, intensity, etc.)" does not permit a probation officer to decide whether in-patient treatment is required and is therefore not an unconstitutional delegation of a core judicial function. Instead, the special condition is only a delegation of "administrative supervisory responsibilities like the selection and schedule of the programs."

Fifth Circuit

United States v. Currier, 160 F.4th 656 (5th Cir. 2025)	Remanding and articulating a "bright-line rule" that any "discretionary condition in the written judgment that *conflicts* with the sentence as orally pronounced must be excised on remand."

United States v. Swick, 137 F.4th 336 (5th Cir. 2025)	"[F]ugitive tolling exists in the supervised release context," such that a court retains jurisdiction to revoke supervision after the supervised release term expires "based on crimes [the supervisee] committed while at large." With this holding the Fifth Circuit aligns with the Second, Third, Fourth, and Ninth Circuits but splits with the First and Eleventh Circuits.
Sixth Circuit	
United States v. Hoyle, 148 F.4th 396 (6th Cir. 2025)	"Based on the Supreme Court's recent decision in *Esteras v. United States*, [606 U.S. 185 (2025)] the district court improperly relied on retribution and punishment factors for [the individual's] supervised-release violation sentence." Rooted in 18 U.S.C. § 3553(a)(2)(A), these factors are excluded from section 3582(e), which applies to violations of supervised release.
United States v. Tavarez, 141 F.4th 750 (6th Cir. 2025)	"[T]he record must demonstrate that the district court considered the relevant § 3553(a) factors before denying an early termination [of supervised release] motion." Failure to consider the relevant section 3553(a) factors is an abuse of discretion requiring the district court's denial order to be vacated and the case remanded for reconsideration.
United States v. Lockridge, 140 F.4th 791 (6th Cir. 2025)	No constitutional infirmity existed where the district court "did not spell out precisely" at the time of sentencing how "in-the-future conditions of supervised release" related to treatment programs and drug tests would be implemented. Under Article III, the district court "may use the assistance of nonjudicial officers," such as probation officers, so long as it "reviews, then accepts, modifies, or rejects, the nonjudicial officers' recommendations."
United States v. Hale, 127 F.4th 638 (6th Cir. 2025)	The Sixth Circuit clarified that 18 U.S.C. § 3583(e)(1) "does not require a finding of exceptionally good behavior before a district court may grant a motion for early termination of supervised release, though such behavior remains a relevant consideration." "Section 3583(e)(1) requires the district court to determine whether early termination 'is warranted by the conduct of the defendant released and the interest of justice,' in addition to certain [18 U.S.C.] § 3553(a) factors. The text does not make 'exceptionally good' conduct an absolute prerequisite to relief."
Eighth Circuit	
United States v. Smith, 145 F.4th 862 (8th Cir. 2025)	Although the defendant's "expression of [] interest in violence and hatred of various groups" and "researching and viewing mass shootings or searches related to white supremacist or terrorist groups" is "troubling paired with [his] acquisition of auto sears, this online activity does not justify [special conditions] depriving a defendant's future ability to access the internet or social media without prior approval of probation or a court."
Ninth Circuit	
United States v. Taylor, 153 F.4th 934 (9th Cir. 2025)	After *Esteras v. United States*, 606 U.S. 185 (2025), "a court may not *punish* a defendant who has violated the terms of supervised release by engaging in criminal conduct," but it "may

	consider a violation of criminal law underlying the supervised release violation in its evaluation of the criminal history of the defendant, the risk of recidivism, and the violator's breach of the court's trust."

Eleventh Circuit

United States v. Murat, 132 F.4th 1347 (11th Cir. 2025)	The district court retained jurisdiction and did not err when it revoked a term of supervised release based on some—but not all—alleged violations and then ruled on the other violations in a second revocation order entered before the first revocation term expired.
United States v. Charles, 129 F.4th 1334 (11th Cir. 2025)	The defendant was not entitled to waive the statutory maximum term of supervised release as a stipulated condition for imposition of a lesser term of imprisonment because "statutory maximums are not 'rights'" that belong to the defendant but rather "*limits* imposed by *Congress*." Accordingly, the district court's sentence of 45 years' imprisonment—below the guideline range of life—to be followed by 15 years' supervised release—in excess of the five-year statutory maximum—was an illegal sentence.

General Application Issues

Fourth Circuit

United States v. Faulls, 148 F.4th 280 (4th Cir. 2025)	The enhancement at §2A4.1(b)(3) for use of a dangerous weapon applies to conduct "that goes beyond brandishing a gun but falls short of discharging it," including when the weapon is "employed to 'create[] a personalized threat of harm' rather than to generally intimidate." To determine the difference between "intimidation" and "threat," a court is to consider whether the weapon "was employed to a) imply the possibility of *future* harm at some unspecified time; or b) communicate a threat of *immediate* harm," where "the later crosses the line from 'brandishing' a gun to 'otherwise using' it."

Tenth Circuit

United States v. Richardson, 136 F.4th 1261 (10th Cir. 2025)	Application of §5G1.3(d) resulting in a partially concurrent, partially consecutive term of imprisonment to an undischarged sentence was appropriate where the "court acted within its discretion in treating the [instant] offense independently" from the offense underlying the undischarged term of imprisonment rather than as relevant conduct under §1B1.3.

Other Offense Types

Fifth Circuit

United States v. Flores, 130 F.4th 465 (5th Cir. 2025)	The Assimilative Crimes Act (18 U.S.C. § 13) provides that a person who violates state law on a federal enclave is "guilty of a like offense and subject to a like punishment." However, the requirement of a "like punishment" "does not preclude a combined term of imprisonment and

	supervised release from exceeding the maximum term of incarceration permitted under state law," which would not be followed by supervised release.
Sixth Circuit	
United States v. Owens, 161 F.4th 439 (6th Cir. 2025)	"The Commission's guidance [in Application Note 1 at §2J1.1 (Contempt)] confirms what common sense suggests: whether contempt amounts to a felony, for purposes of calculating a guidelines range, should be determined on a case-by-case basis, not across the board." "[T]o determine whether to treat contempt as a felony—for purposes of calculating a guidelines range—we examine whether the 'misconduct constituting contempt' is akin to conduct treated as felonious under the federal criminal code."
Ninth Circuit	
United States v. Greene, 137 F.4th 1056 (9th Cir. 2025)	The district court plainly erred in relying on a carjacking "pseudo-count" to calculate the defendant's offense level where the stipulated facts in the plea agreement did not "establish all elements of federal carjacking," namely that the defendant acted with the "intent to cause death or serious bodily harm."

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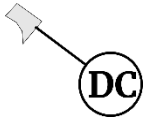

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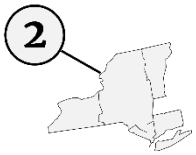

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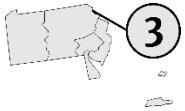

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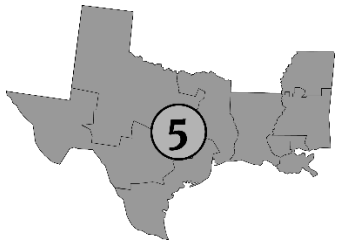

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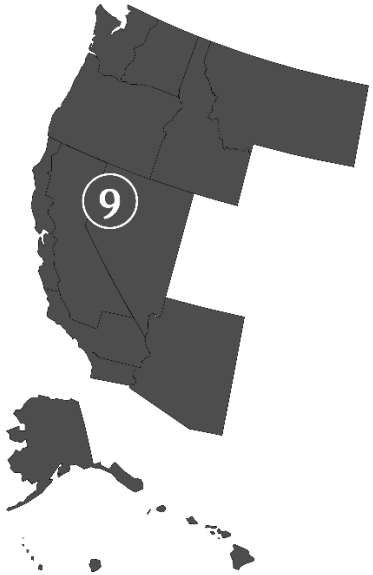

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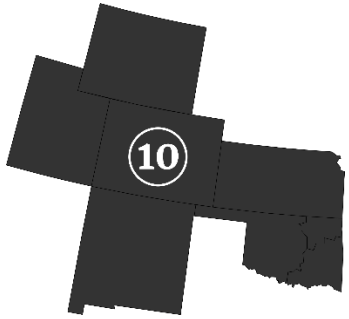

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