

APPELLATE REVERSALS AFTER *GALL**
July 25, 2016
Sentencing Resource Counsel
Federal Public and Community Defenders

I. Sentences **within the guideline range reversed as **substantively unreasonable****

United States v. Dorvee, 616 F.3d 174 (2d Cir. 2010)

United States v. Curry, 570 F. App'x 315 (4th Cir. 2014)

United States v. Sanders, 472 F. App'x 376 (6th Cir. 2012)

United States v. Wright, 426 F. App'x 412 (6th Cir. 2011)

United States v. Amezcua-Vasquez, 567 F.3d 1050 (9th Cir. 2009)

United States v. Paul, 561 F.3d 970 (9th Cir. 2009)

II. Sentences **within the guideline range reversed for **procedural error** where court failed to adequately explain sentence or address non-frivolous argument or explain reason for rejecting such an argument (all on defendant's appeal)**

United States v. Corsey, 723 F.3d 366 (2d Cir. 2013)

United States v. McLean, 518 F. App'x 30 (2d Cir. 2013)

United States v. Echeverri, 460 F. App'x 54 (2d Cir. 2012)

United States v. Cossey, 632 F.3d 82 (2d Cir. 2011)

United States v. Tutty, 612 F.3d 128 (2d Cir. 2010)

United States v. Hernandez, 604 F.3d 48 (2d Cir. 2010)

United States v. Johnson, 273 F. App'x 95 (2d Cir. 2008)

United States v. Palillero, 525 F. App'x 92 (3d Cir. 2013)

United States v. Salinas-Cortez, 660 F.3d 695 (3d Cir. 2011)

United States v. Friedman, 658 F.3d 342 (3d Cir. 2011)

United States v. Byrd, 415 F. App'x 437 (3d Cir. 2011)

United States v. Carver, 347 F. App'x 830 (3d Cir. 2009)

United States v. Sevilla, 541 F.3d 226 (3d Cir. 2008)

United States v. DeYoung, 571 F. App'x 231 (4th Cir. 2014)

United States v. Williams, 571 F. App'x 220 (4th Cir. 2014)

United States v. Smith, 541 F. App'x 306 (4th Cir. 2013)

United States v. Torres-Aguirre, 481 F. App'x 803 (4th Cir. 2012)

* This list does not include reversals where it is clear from the appellate decision that the district court did not address an argument because, at the time of sentencing, circuit precedent precluded it from doing so. It does not include cases reversed because the district court treated the guidelines as mandatory or presumed reasonable. And it does not include reversals of sentences imposed upon the revocation of probation or supervised release.

United States v. Gay, 466 F. App'x 183 (4th Cir. 2012)
United States v. Medel-Moran, 422 F. App'x 262 (4th Cir. 2011)
United States v. Gonzalez-Villatoro, 417 F. App'x 297 (4th Cir. 2011)
United States v. Leech, 409 F. App'x 633 (4th Cir. 2011)
United States v. Taylor, 371 F. App'x 375 (4th Cir. 2010)
United States v. Walker, 403 F. App'x 803 (4th Cir. 2010)
United States v. Martinez-Martinez, 378 F. App'x 302 (4th Cir. 2010)
United States v. Jackson, 397 F. App'x 924 (4th Cir. 2010)
United States v. Hardee, 396 F. App'x 17 (4th Cir. 2010)
United States v. Ricketts, 395 F. App'x 69 (4th Cir. 2010)
United States v. Cornette, 396 F. App'x 8 (4th Cir. 2010)
United States v. Black, 389 F. App'x 256 (4th Cir. 2010)
United States v. Lynn, 592 F.3d 572, 581 (4th Cir. 2010)
United States v. Pacheco Mayen, 383 F. App'x 352 (4th Cir. 2010)
United States v. Clark, 383 F. App'x 310 (4th Cir. 2010)
United States v. Olislager, 383 F. App'x 314 (4th Cir. 2010)
United States v. Murphy, 380 F. App'x 344 (4th Cir. 2010)
United States v. Herder, 594 F.3d 352 (4th Cir. 2010)
United States v. Dury, 336 F. App'x 371 (4th Cir. 2009)
United States v. Shambry, 343 F. App'x 941 (4th Cir. 2009)
United States v. Harris, 337 F. App'x 371 (4th Cir. 2009)
United States v. Sanders, 340 F. App'x 162 (4th Cir. 2009)

United States v. Clay, 787 F.3d 328 (5th Cir. 2015)
United States v. Simmons, 568 F.3d 564 (5th Cir. 2009)
United States v. Tisdale, 264 F. App'x 403 (5th Cir. 2008)

United States v. Ferguson, 518 F. App'x 458 (6th Cir. 2013)
United States v. McAllister [Hughes], 491 F. App'x 569 (6th Cir. 2012)
United States v. Bugg, 483 F. App'x 166 (6th Cir. 2012)
United States v. Watkins, 450 F. App'x 511 (6th Cir. 2011)
United States v. Montague, 438 F. App'x 478 (6th Cir. 2011)
United States v. Davy, 433 F. App'x 343 (6th Cir. 2011)
United States v. Taylor, 648 F.3d 417 (6th Cir. 2011)
United States v. Pizzino, 419 F. App'x 579 (6th Cir. 2011)
United States v. Johnson, 407 F. App'x 8 (6th Cir. 2010)
United States v. Goff, 400 Fed App'x 1 (6th Cir. 2010)
United States v. Wallace, 597 F.3d 794 (6th Cir. 2010)
United States v. Rhodes, 410 F. App'x 856 (6th Cir. 2010)
United States v. Temple, 404 F. App'x 15 (6th Cir. 2010)
United States v. Pritchard, 392 F. App'x 433 (6th Cir. 2010)
United States v. Ross, 375 F. App'x 502 (6th Cir. 2010)
United States v. Fenderson, 354 F. App'x 236 (6th Cir. 2009)
United States v. Howell, 352 F. App'x 55 (6th Cir. 2009)
United States v. Delgado, 318 F. App'x 380 (6th Cir. 2009)
United States v. Robertson, 309 F. App'x 918 (6th Cir. 2009)

United States v. Recla, 560 F.3d 539 (6th Cir. 2009)
United States v. Penson, 526 F.3d 331 (6th Cir. 2008)
United States v. Stephens, 549 F.3d 459 (6th Cir. 2008)
United States v. Peters, 512 F.3d 787 (6th Cir. 2008)

United States v. Presley, 790 F.3d 699 (7th Cir. 2015)¹
United States v. Estrada-Mederos, 784 F.3d 1086 (7th Cir. 2015)
United States v. Washington, 739 F.3d 1080 (7th Cir. 2014)
United States v. Lyons, 733 F.3d 777 (7th Cir. 2013)
United States v. Patrick, 707 F.3d 815 (7th Cir. 2013)
United States v. Martin, 718 F.3d 684 (7th Cir. 2013)
United States v. Baca-Baca, 519 F. App'x 933 (7th Cir. 2013)
United States v. Halliday, 672 F.3d 462 (7th Cir. 2012)
United States v. Robertson, 662 F.3d 871 (7th Cir. 2011)
United States v. Johnson, 635 F.3d 983 (7th Cir. 2011)
United States v. Garcia-Oliveros, 639 F.3d 380 (7th Cir. 2011)
United States v. Figueroa, 622 F.3d 739 (7th Cir. 2010)
United States v. Smith, 400 F. App'x 96 (7th Cir. 2010)
United States v. Arberry, 612 F.3d 898 (7th Cir. 2010)
United States v. Panice, 598 F.3d 426 (7th Cir. 2010)
United States v. Harris, 567 F.3d 846 (7th Cir. 2009)
United States v. Steward, 339 F. App'x 650 (7th Cir. 2009)
United States v. [Clinton] Williams, 553 F.3d 1073 (7th Cir. 2009)
United States v. Hopkins, 338 F. App'x 528 (7th Cir. 2009)
United States v. Villegas-Miranda, 579 F.3d 798 (7th Cir. 2009)
United States v. Jackson, 546 F.3d 465 (7th Cir. 2008)
United States v. Skinner, 303 F. App'x 369 (7th Cir. 2008)

United States v. Smith, 573 F.3d 639 (8th Cir. 2009)

United States v. Garcia II, 491 F. App'x 815 (9th Cir. 2012)
United States v. Garcia I, 426 F. App'x 530 (9th Cir. 2011)
United States v. Mota, 434 F. App'x 636 (9th Cir. 2011)
United States v. Ferguson, 412 F. App'x 974 (9th Cir. 2011)
United States v. Waknine, 543 F.3d 546 (9th Cir. 2008)

United States v. Santillanes, 274 F. App'x 718 (10th Cir. 2008)
United States v. Cerno, 529 F.3d 926 (10th Cir. 2008)

United States v. Solano-Ramirez, 506 F. App'x 871 (11th Cir. 2013)
United States v. Luster, 388 F. App'x 936 (11th Cir. 2010)
United States v. Narvaez, 285 F. App'x 720 (11th Cir. 2008)
United States v. Prather [Terry Outlaw], 279 F. App'x 761 (11th Cir. 2008)

¹ Technically, the panel did not reverse the sentence in this case. Instead, it remanded with an invitation to the district judge to consider resentencing in light of the panel's concerns that the sentence did not account for empirical studies on deterrence and aging.

United States v. Hall, 610 F.3d 727 (D.C. Cir. 2010)

III. Sentences outside the guideline range reversed as substantively unreasonable

A. Defendant's appeal

United States v. Ofray-Campos, 534 F.3d 1 (1st Cir. 2008) (above)

United States v. Esso, 486 F. App'x 200 (2d Cir. 2012) (below)

United States v. Olhovsky, 562 F.3d 530 (3d Cir. 2009) (below)

United States v. Calderon-Minchola, 351 F. App'x 610 (3d Cir. 2009) (below)

United States v. Howard, 773 F.3d 519 (4th Cir. 2014) (above)

United States v. Chandler, 732 F.3d 434 (5th Cir. 2013) (above)

United States v. Gerezano-Rosales, 692 F.3d 393 (5th Cir. 2012) (above)

United States v. Van, 541 F. App'x 592 (6th Cir. 2013) (above)

United States v. Melchor, 515 F. App'x 444 (6th Cir. 2013) (above)

United States v. Aleo, 681 F.3d 290 (6th Cir. 2012) (above)

United States v. Walker, 649 F.3d 511 (6th Cir. 2011) (above)

United States v. Censke, 449 F. App'x 456 (6th Cir. 2011) (above)

United States v. Worex, 420 F. App'x 546 (6th Cir. 2011) (above)

United States v. Ortega-Rogel, 281 F. App'x 471 (6th Cir. 2008) (above)

United States v. Bradley I, 628 F.3d 394 (7th Cir. 2010) (above)

United States v. Miller, 601 F.3d 734 (7th Cir. 2010) (above)

United States v. Cruz-Valdivia, 526 F. App'x 735 (9th Cir. 2013) (above)

United States v. Lopez, 343 F. App'x 484 (11th Cir. 2009) (above)

B. Government's appeal (all below)

United States v. Crespo-Rios, 787 F.3d 34 (1st Cir. 2015)

United States v. Park, 758 F.3d 193 (2d Cir. 2014)

United States v. Cutler, 520 F.3d 136 (2d Cir. 2008)

United States v. Hayes, 383 F. App'x 204 (3d Cir. 2010)

United States v. Lychock, 578 F.3d 214 (3d Cir. 2009)

United States v. Engle, 592 F.3d 495 (4th Cir. 2010)

United States v. Abu Ali, 528 F.3d 210 (4th Cir. 2008)

United States v. Robinson, 778 F.3d 515 (6th Cir. 2015)
United States v. Musgrave, 761 F.3d 602 (6th Cir. 2014)
United States v. Bistline II, 720 F.3d 631 (6th Cir. 2013)
United States v. Peppel, 707 F.3d 627 (6th Cir. 2013)
United States v. Robinson, 669 F.3d 767 (6th Cir. 2012)
United States v. Bistline, 665 F.3d 758 (6th Cir. 2012)
United States v. Camiscione, 591 F.3d 823 (6th Cir. 2010)
United States v. Christman, 607 F.3d 1110 (6th Cir. 2010)
United States v. Harris, 339 F. App'x 533 (6th Cir. 2009)
United States v. Hunt, 521 F.3d 636, 650 (6th Cir. 2008)
United States v. Hughes, 283 F. App'x 345 (6th Cir. 2008)

United States v. [Davis] Omole, 523 F.3d 691 (7th Cir. 2008)

United States v. Dautovic, 763 F.3d 927 (8th Cir. 2014)
United States v. Cole, 721 F.3d 1016 (8th Cir. 2013)
United States v. Kane, 639 F.3d 1121 (8th Cir. 2011)

United States v. Ressam, 679 F.3d 1069 (9th Cir. 2012) (*en banc*)

United States v. Morgan, 635 F. App'x 423 (10th Cir. 2015)
United States v. Friedman, 554 F.3d 1301 (10th Cir. 2009)

United States v. Hooper, 566 F. App'x 771 (11th Cir. 2014)
United States v. Hayes, 762 F.3d 1300 (11th Cir. 2014)
United States v. McQueen, 727 F.3d 1144 (11th Cir. 2013)
United States v. Kuhlman, 711 F.3d 1321 (11th Cir. 2013)
United States v. Jayyousi [Padilla], 657 F.3d 1085 (11th Cir. 2011)
United States v. Irey, 612 F.3d 1160 (11th Cir. 2010) (*en banc*)
United States v. Livesay, 587 F.3d 1274 (11th Cir. 2009)
United States v. McVay, 294 F. App'x 488 (11th Cir. 2008)
United States v. Pugh, 515 F.3d 1179 (11th Cir. 2008)

IV. Sentences outside the guideline range reversed for procedural error where court failed to adequately explain sentence or address non-frivolous argument or explain reason for rejecting such an argument

A. Defendant's appeal

United States v. Rivera-Gonzalez, 809 F.3d 706 (1st Cir. 2016) (above)

United States v. Barrera, ___ F. App'x ___, 2016 WL 362517 (2d Cir. Jan. 29, 2016) (above)
United States v. Fama, ___ F. App'x ___, 2016 WL 277750 (2d Cir. Jan. 22, 2016) (above)
United States v. Culver, 514 F. App'x 61 (2d Cir. 2013) (below)
L.M. v. United States, 456 F. App'x 25 (2d Cir. 2011) (below)

United States v. Preacely, 628 F.3d 72 (2d Cir. 2010) (below)
United States v. Persico, 293 F. App'x 24 (2d Cir. 2008) (above)
United States v. Pearson, 275 F. App'x 48 (2d Cir. 2008) (below)

United States v. Brown II, 429 F. App'x 82 (3d Cir. 2011) (below)
United States v. Brown I, 595 F.3d 498 (3d Cir. 2010) (below)
United States v. Brown, 578 F.3d 221 (3d Cir. 2009) (above)
United States v. Grant, 323 F. App'x 189 (3d Cir. 2009) (above)
United States v. Swift, 357 F. App'x 489 (3d Cir. 2009) (below)

United States v. Lymas, 781 F.3d 106 (4th Cir. 2015) (above)
United States v. Hutchison, 545 F. App'x 253 (4th Cir. 2013) (above)
United States v. Strickland, 2010 WL 235080 (4th Cir. Jan. 21, 2010) (above)
United States v. Lynn [Tucker], 592 F.3d 572 (4th Cir. 2010) (above)
United States v. Monroe, 396 F. App'x 33 (4th Cir. 2010) (above)
United States v. Cameron, 340 F. App'x 872 (4th Cir. 2009) (above)
United States v. Maynor, 310 F. App'x 595 (4th Cir. 2009) (above)
United States v. Dillon, 355 F. App'x 732 (4th Cir. 2009) (above)

United States v. Phillips, 415 F. App'x 557 (5th Cir. 2011) (above)
United States v. Aguilar-Rodriguez, 288 F. App'x 918 (5th Cir. 2008) (above)

United States v. Daniels, ___ F. App'x ___, 2016 WL 463459 (6th Cir. Feb. 8, 2016) (above)
United States v. Payton, 754 F.3d 375 (6th Cir. 2014) (above)
United States v. Barahona-Montenegro, 565 F.3d 980 (6th Cir. 2009) (above)
United States v. Simpson, 346 F. App'x 10 (6th Cir. 2009) (below)
United States v. Grams, 566 F.3d 683 (6th Cir. 2009) (above)
United States v. Gapinski, 561 F.3d 467 (6th Cir. 2009) (below)
United States v. Blackie, 548 F.3d 395 (6th Cir. 2008) (above)

United States v. Morris, 775 F.3d 882 (7th Cir. 2015) (below)
United States v. Lockwood, 789 F.3d 773 (7th Cir. 2015) (above)
United States v. Patterson, 557 F. App'x 558 (7th Cir. 2014) (below)
United States v. Ramirez-Mendoza, 683 F.3d 771 (7th Cir. 2012) (above)
United States v. Bradley II, 675 F.3d 1021 (7th Cir. 2012) (above)
United States v. Hann, 407 F. App'x 953 (7th Cir. 2011) (above)
United States v. Johnson, 612 F.3d 889 (7th Cir. 2010) (above)
United States v. Davis, 375 F. App'x 604 (7th Cir. 2010) (below)
United States v. Kirkpatrick, 589 F.3d 414 (7th Cir. 2009) (above)
United States v. Bartlett, 567 F.3d 901 (7th Cir. 2009) (above)

United States v. Moore, 683 F.3d 927 (8th Cir. 2012) (above)
United States v. Azure, 536 F.3d 922, 932 (8th Cir. 2008) (above)

United States v. Henderson, 649 F.3d 955 (9th Cir. 2011) (below)
United States v. Oba, 317 F. App'x 698 (9th Cir. 2009) (above)

United States v. Lente, 647 F.3d 1021 (10th Cir. 2011) (above)

United States v. Gabriel, 2016 WL 1621988 (11th Cir. Apr. 25, 2016) (above)

United States v. Cruz, 2016 U.S. App. LEXIS 2076 (11th Cir. Jan. 6, 2016) (above)

United States v. Linkel, ___ F. App'x ___, 2016 WL 384703 (11th Cir Feb. 2, 2016) (above)

United States v. Valera, 622 F. App'x 876 (11th Cir. 2015) (above)

United States v. Rodriguez-Oro, 603 F. App'x 893 (11th Cir. 2015) (above)

United States v. Espinoza, 550 F. App'x 690 (11th Cir. 2013) (above)

United States v. Johnson, 520 F. App'x 841 (11th Cir. 2013) (above)

United States v. Mattox II, 459 F. App'x 877 (11th Cir. 2012) (above)

United States v. Mattox I, 402 F. App'x 507 (11th Cir. 2010) (above)

United States v. Kirschner, 397 F. App'x 514 (11th Cir. 2010) (above)

United States v. [Julio] Magana, 279 F. App'x 756 (11th Cir. 2008) (above)

United States v. Bigley, 786 F.3d 11 (D.C. Cir. 2015) (below)

United States v. Akhigbe, 642 F.3d 1078 (D.C. Cir. 2011) (above)

In re Sealed Case, 527 F.3d 188 (D.C. Cir. 2008) (above)

B. Government's appeal (all below)

United States v. Ressa, 512 F. App'x 106 (2d Cir. 2013)

United States v. DeSilva, 613 F.3d 352 (2d Cir. 2010)

United States v. Negroni, 638 F.3d 434 (3d Cir. 2011)

United States v. Merced, 603 F.3d 203 (3d Cir. 2010)

United States v. Levinson, 543 F.3d 190 (3d Cir. 2008)

United States v. Moolenaar, 259 F. App'x 433 (3d Cir. 2007)

United States v. Morace, 594 F.3d 340 (4th Cir. 2010)

United States v. Gaskill, 318 F. App'x 251 (4th Cir. 2009)

United States v. Carter, 564 F.3d 325 (4th Cir. 2009)

United States v. Harris, 339 F. App'x 533 (6th Cir. 2009)

United States v. Henry, 545 F.3d 367 (6th Cir. 2008)

United States v. Smith, 811 F.3d 907 (7th Cir. 2016)

United States v. Brown, 610 F.3d 395 (7th Cir. 2010)

United States v. Cole, 721 F.3d 1016 (8th Cir. 2013)

United States v. Kane, 552 F.3d 748 (8th Cir. 2009)

United States v. Shy, 538 F.3d 933 (8th Cir. 2008)

United States v. Bragg, 582 F.3d 965 (9th Cir. 2009)

United States v. Medawar, 270 F. App'x 488 (9th Cir. 2008)

United States v. Morgan, 635 F. App'x 423 (10th Cir. 2015)
United States v. Pena-Hermosillo, 522 F.3d 1108 (10th Cir. 2008)

United States v. Livesay, 525 F.3d 1081 (11th Cir. 2008)
United States v. [Jeremiah] Prather, 279 F. App'x 761 (11th Cir. 2008)