

SCENARIO NO. 1
United States v. Lyle Turner

Read the following materials, which are abbreviated from the presentence report. Then, view the accompanying video. After completing your review, you will be asked to determine an appropriate sentence for this defendant.

Offense(s) of Conviction

Counts 1-4: Fail to File Return, Supply Information, Pay Tax, in violation of 26 U.S.C. § 7203, a Class A misdemeanor.

Plea Agreement Summary

The defendant, Lyle Turner, and his codefendant/wife Sharon Turner (recently deceased), exercised their right to trial and were pro se. Although they were provided with multiple opportunities to obtain legal counsel both before and after trial (during the presentence investigation process and at sentencing), they chose not to retain a criminal attorney.

The Offense Conduct

Lyle and Sharon Turner developed an interest in the tax defier movement in the 1990s, and actively studied the various positions, purchased written and video materials, and attended conferences. In 2000, they filed with the Internal Revenue Service (IRS) what later was determined to be a frivolous tax return. In each consecutive year they willfully failed to file returns despite ongoing attempts by the IRS to bring them into compliance with tax payer requirements. They were repeatedly advised by the IRS that their position was not supported by the law and that criminal penalties could result. Although their conduct occurred over a period of more than 10 years, most of those years were not charged by indictment due to the statute of limitations.

Because the Turners were unwilling to cooperate with the IRS, an agent prepared returns on their behalf based upon records the agent was able to secure. The Turners had acquired nearly \$3 million in assets, primarily real estate, and had gross income of at least \$10 million during the period of noncompliance. Cash assets could not be determined with accuracy.

Mr. Turner also maintained tax defier literature at his place of business, actively encouraged employees and others not to file their taxes, and attempted to convert them to his position. He also created an Internet website that presented a variety of tax defier arguments in an ongoing attempt to recruit others.

At trial, it became clear that Lyle and Sharon Turner had been indoctrinated into the anti tax movement, were influenced in their personal and professional decisions by the teachings of such groups, and sincerely were convinced as to the correctness and legality of their position.

Offense Level Computation

The estimated tax loss of \$2.6 million establishes a Base Offense Level of 24 under USSG §§2T1.1(a)(1) and 2T4.1(J). There are no other Chapter 2 or 3 adjustments. The defendant did not demonstrate acceptance of responsibility. The Total Offense Level is 24.

Criminal History & Category

The defendant has no prior criminal history. The Criminal History Category is I.

Offender Characteristics

Lyle Turner was raised in a small agricultural community. He met his wife, Sharon, in middle school and they married after graduating from college.

The Turners have two children, ages 8 and 10. The Turners have been opposed to traditional medicine and birthed their children at home. The youngest child has special needs due to complications during the birthing process.

Mr. Turner and his wife opened a farm implement business in their community approximately 20 years ago, and it remains in operation. Sharon Turner managed the financials from home while the defendant operated the day-to-day business. Their business has been successful, with annual receipts often exceeding \$1 million.

Shortly before sentencing, Sharon Turner was hospitalized for metastatic cancer. Within weeks, she succumbed to her illness. Thereafter, the defendant's family members contacted the U.S. Probation Office and insisted the defendant should not receive criminal punishment because his young daughters required his care subsequent to the loss of their mother. It was suggested that Mr. Turner's legal consequences had been satisfied by the death of Sharon Turner. Family members of the defendant also attempted to place full blame on Sharon Turner, claiming that she had withheld legal communications from the defendant.

Mr. Turner has been unable to identify anyone who will care for his two minor-aged daughters in the event he is incarcerated. It is likely that a foster care placement will be pursued by the state.

Sentencing Options

TOTAL OFFENSE LEVEL:	24	CRIMINAL HISTORY CATEGORY:	I
		ZONE:	D

	<u>Statutory Provisions</u>	<u>Guideline Provisions</u>
CUSTODY:	Cts. 1-4: Up to 1 year, per count	51 to 63 months <i>(restricted to a combined total of 48 months per USSG §5G1.2)</i>
SUPERVISED RELEASE:	Cts. 1-4: Up to 1 year, per count, concurrent	Cts. 1-4: 1 year, per count (concurrent per statute)
PROBATION:	Cts. 1-4: Up to 5 years, per count	Cts. 1-4: Not Authorized (Zone D)

Factors That May Warrant a Guideline Departure

The defendant's wife recently died of cancer and he is the sole support and care provider for his two minor-aged children, one of whom has special needs. Pursuant to USSG §5H1.6, family ties and responsibilities are generally not appropriate for downward departure consideration. The seriousness of the offense, the involvement in the offense by members of the defendant's family, and any danger to members of the defendant's family as a result of the offense should be considered. Further, in order to grant a downward departure, the following must be present: (1) the defendant's service of a sentence within the guideline range will cause substantial, direct, and specific loss of essential caretaking or financial support to his family; (2) the loss of those exceeds the harm ordinarily caused by incarceration for a similarly situated defendant; (3) there is no effective solution to avoid the loss of caretaking and financial support; and (4) a departure will effectively address these issues.

Factors That Relate to 18 U.S.C. § 3553(a) and/or May Warrant a Variance

The defendant engaged in this criminal conduct for 13 years and defied all attempts by the IRS to gain taxpayer compliance, despite the fact that he had the means to pay his tax obligations. During this time, the defendant attempted to recruit others to his position and created an Internet website through which he actively proselytized.

The defendant earnestly believes the tax laws are unconstitutional and he is not required to pay taxes on the "fruits of his labor." He has repeatedly demanded that the IRS prove that obligation to him and he believes they have failed to do so. He and his wife have researched this issue and both were convinced that the United States' tax laws are unconstitutional.

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Government's Recommendation

<u>Imprisonment</u>	<u>Supervised Release</u>	<u>Probation</u>

Defendant's Recommendation

<u>Imprisonment</u>	<u>Supervised Release</u>	<u>Probation</u>

Your Sentence

<u>Imprisonment</u>	<u>Supervised Release</u>	<u>Probation</u>

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