

**SCENARIO NO. 12**  
**United States v. Charles Gilchrist**

*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**

**Count 1:** Possession of Marijuana with Intent to Distribute, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(D). A Class D felony.

**Plea Agreement Summary**

The government will seek a sentence within the guideline range and will oppose any request for a downward departure. The defendant will request a downward departure for his prior military service.

**The Offense Conduct**

Charles Gilchrist and Tyrone Washington were employed as truck drivers for Barkley Trucking of Brownsville, Texas. Barkley Trucking transports auto parts to factories throughout the United States.

On March 1 of this year, Tyrone Washington drove a Barkley tractor-trailer rig to the U.S. Border Patrol's Sarita checkpoint, approximately 100 miles north of Brownsville. Charles Gilchrist, a Barkley employee who was off-duty but taking advantage of the company's policy that allowed him to travel for free along company routes, was a passenger. The agent who contacted Mr. Gilchrist and Mr. Washington observed that they appeared to be quite nervous. The agent directed Mr. Washington to park the truck in the inspection lot. When asked, Mr. Washington gave the agent permission to search the trailer. The agent found suspected marijuana in plastic bags that had been tucked inside some tires. The substance field-tested positively as marijuana and subsequent laboratory testing confirmed it had a net weight of 45 kilograms.

Mr. Washington and Mr. Gilchrist were arrested at the scene. Each had \$1,000 on his person, which was seized. After being advised of their rights, both defendants acknowledged that they had agreed to transport the marijuana to Houston, Texas, and received a \$2,000 advance payment in cash. Mr. Washington explained that he had been approached by a stranger at a truck stop who requested they transport the marijuana for pay. Both defendants maintained they did not recall the delivery address.

The defendants' supervisor at Barkley Trucking considered both men to be good employees, but terminated their employment once he learned of the circumstances of their arrest.

**Acceptance of Responsibility**

The defendant advised that he was a passenger in the truck that was being driven by Mr. Washington. He maintains that he went along with the marijuana transport reluctantly and had thought about staying behind and hitchhiking the remainder of the way to Houston. He did accept \$1,000 for his participation in the offense, which was seized upon arrest.

**Offense Level Computation**

The Base Offense Level for 45 kilograms of marijuana is 20 (USSG §2D1.1(c)(10)). The defendant received a 3-level reduction for timely acceptance of responsibility (USSG §3E1.1(a) and (b)). The Total Offense Level is 17.

**Criminal History & Category**

Mr. Gilchrist has a prior conviction for misdemeanor assault, for which he served 90 days in jail (2 points). A 30-day sentence was imposed following a conviction for second degree malicious mischief (1 point). He was arrested for possession of stolen property, which was later dismissed. The defendant has three criminal history points and a Criminal History Category of II.

**Offender Characteristics**

Mr. Gilchrist, age 33, was raised in Houston. He has a high school diploma and attended a truck driving school, where he earned his CDL. He is unmarried.

At 25, Mr. Gilchrist entered the U.S. Army and served in Afghanistan for 13 months. He was assigned to a headquarters supply unit that was attacked by insurgents on two occasions and as a result, engaged in limited combat. The defendant's criminal arrests and convictions occurred subsequent to his return from Afghanistan. Mr. Gilchrist reported he has had difficulty adjusting since returning home from Afghanistan and tends to be irritable and anxious. The defendant does have an offer of employment in an auto parts store once he is released from any term of imprisonment that may be imposed by the Court.

**Sentencing Options**

<b>TOTAL OFFENSE LEVEL:</b>	<b>17</b>	<b>CRIMINAL HISTORY CATEGORY:</b>	<b>II</b>
		<b>ZONE:</b>	<b>D</b>

	<u>Statutory Provisions</u>	<u>Guideline Provisions</u>
<b>CUSTODY:</b>	Up to 5 years	27 to 33 months
<b>SUPERVISED RELEASE:</b>	Not less than 2 years nor more than life	2 to 3 years
<b>PROBATION:</b>	1 to 5 years	Not Authorized (Zone D)

### **Factors That May Warrant a Guideline Departure**

The defendant is a veteran who served in Afghanistan and saw limited combat. According to USSG §5H1.11, military service can justify a departure if that service, in and of itself or in combination with other offender characteristics, is present to an unusual degree and distinguishes Mr. Gilchrist's case from a typical case.

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

It appears no factors are present.

### **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>