

**SCENARIO NO. 4**  
**United States v. Samuel Rich**

*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/Penalty**

**Count 1:** Felon in Possession of a Firearm, in violation of 18 U.S.C. § 922(g)(1), a Class C felony.

**Plea Agreement Summary**

The government will recommend a sentence at the high end of the guideline range. The defendant will seek a downward departure under USSG §5K2.0 in addition to a variance which relates to the defendant's statement that he had been given permission to possess the firearm by his parole officer.

**The Offense Conduct**

The defendant, Samuel Rich, was under parole supervision with the state Department of Corrections and absconded. A fugitive task force located Mr. Rich and a high speed chase ensued, ending when the defendant crashed his vehicle. Mr. Rich was arrested and his vehicle was searched. An officer observed drug paraphernalia and a baggie of what later was determined to be methamphetamine on the front passenger seat of the vehicle. The officer also found a pistol under the driver's seat. Mr. Rich advised he had purchased the handgun from a friend for his wife.

As a convicted felon, Mr. Rich previously had been made aware that he was prohibited from possessing a firearm. However, he maintained that he had informed his parole officer, Jack Jones, about his wife's gun and Officer Jones had given him permission to have the handgun in their home under lock and key. Mr. Rich's statement could not be substantiated as the parole officer denied he had given Mr. Rich permission to possess a firearm.

**Offense Level Computation**

The Base Offense Level is 14 (USSG §2K2.1(a)(6)(A)) because Mr. Rich was a convicted felon at the time he possessed the weapon. A 4-level increase (USSG §2K2.1(b)(6)(B)) is given because the defendant possessed the firearm in connection with another felony offense, attempt to elude police. A 3-level reduction for timely acceptance of responsibility (USSG §3E1.1(a)) is appropriately given. The Total Offense Level is 15.

### **Criminal History & Category**

At age 18, the defendant was convicted of second degree theft after he obtained a refund for stolen merchandise; he received a 60-day jail sentence. This was part of a larger fraud scheme committed under the direction of his father. He served a 15-month sentence for possession of methamphetamine. Mr. Rich also served a 25-month prison sentence for first degree theft, after he wrote in excess of \$10,000 in non sufficient funds checks. He attributed this offense to his methamphetamine addiction and was given a special sentence which included supervision and chemical dependency treatment. He was under supervision when he committed the instant offense. The Criminal History Category is V.

### **Offender Characteristics**

Samuel Rich, age 25, is the youngest of three children. His parents divorced when he was age 5, and he remained with his mother. At age 12, his father picked him up for a weekend visit and never returned with him. For a number of years, the defendant had no contact with his mother and had been told by his father that she no longer wanted him.

Mr. Rich's father supported them through fraud and involved the defendant in his schemes. The defendant commented that he had been "brainwashed" by his father to think that the fraud was "cool." His father obtained a false identity for him that they used in their schemes. The defendant's father also introduced him to methamphetamine when he was a teenager. Mr. Rich's father was killed in an automobile accident when Mr. Rich was age 17. Mr. Rich feels responsible for his father's death because he was driving at the time of the accident.

When Mr. Rich paroled, he found employment with a landscaping company and supervised a crew. He remained abstinent from methamphetamine and appeared to be adjusting well to the community. Within a few months of his parole, Mr. Rich met a woman and they married within a few months. His wife was initially unaware of the defendant's criminal and substance abuse history.

The defendant's state parole officer, Mr. Jones, eventually approached the defendant and asked him to maintain the lawn at his residence for free. Mr. Rich complied, and also provided ongoing landscaping improvements for his parole officer, without charge.

Mr. Rich and his wife began to have marital problems and he relapsed on methamphetamine. His parole officer, Mr. Jones, had not been requiring Mr. Rich to submit urine samples for testing and did not take action or offer services to Mr. Rich when Mr. Rich revealed his relapse. As Mr. Rich's situation spiraled out of control, he was terminated from his job and his wife insisted he leave their home, whereupon Mr. Rich absconded from supervision. After the instant offense resulted in his arrest, Mr. Rich reported the actions of his parole officer to authorities in the hopes of minimizing his consequences.

**Sentencing Options**

<b>TOTAL OFFENSE LEVEL:</b>	<b>15</b>	<b>CRIMINAL HISTORY CATEGORY:</b>	<b>V</b>
		<b>ZONE:</b>	<b>D</b>

	<b><u>Statutory Provisions</u></b>	<b><u>Guideline Provisions</u></b>
<b>CUSTODY:</b>	Up to 10 years	37 to 46 months
<b>SUPERVISED RELEASE:</b>	Up to 3 years	1 to 3 years
<b>PROBATION:</b>	1 to 5 years	Not Authorized (Zone D)

**Factors That May Warrant a Guideline Departure**

Pursuant to USSG §5H1.12, lack of guidance as a youth and similar circumstances indicating a disadvantaged upbringing are not relevant grounds in determining whether a departure is warranted. However, in this case, in addition to being severely misdirected by his father as a teenager into a life of fraud and drug abuse, Mr. Rich also was exploited by his parole officer, who failed to provide Mr. Rich with the services he needed such as drug testing, treatment, and mental health counseling. Given Mr. Rich's experiences, it is not surprising that he has run afoul of the law. He requires treatment to address these areas, rather than a lengthy period of incarceration. A departure is warranted by this combination of factors under USSG §5K2.0.

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

While the parole officer denied giving Mr. Rich permission to possess a firearm, based upon the fact that the parole officer compromised himself by obtaining free services from the defendant, that denial may not be reliable.

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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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