

# FROM FIREWORKS TO FOREST FIRE - SCRIPTED JUDGE'S GUIDE

## *You Be the Judge* Sentencing Exercise - Judge's Guide From Fireworks to Forest Fire

How Aggravating and Mitigating Factors Affect Sentencing Decisions

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### INSTRUCTIONS

**Judge:** After listening to a volunteer read a fictional scenario out loud, you will be the judges on this case.

1. We'll start with the scenario just as it is, and you will determine the sentence within the parameters set out for you.
2. Then I will add in aggravating factors that would argue for a stiffer sentence and mitigating factors that would argue for a lighter sentence.
3. After I give you a new factor, I'll ask: Who would give a more severe sentence based on that factor and who would give a more lenient sentence?
4. To wrap up the exercise, I will ask you to weigh the totality of all the factors, and determine your ultimate sentencing decision. Then we will discuss.
5. Who would like to come to the microphone and read the one-paragraph scenario so that everyone can hear you?

### FICTIONAL SCENARIO

Tim Foster and his friends go camping in a federal park over the Fourth of July weekend. Tim buys fireworks in a neighboring state and crosses state lines to use them back at the campsite. When he sets off the fireworks, the brush on the forest floor bursts into flames. Firefighters battle the blaze for three days to get it under control. Tim is arrested and charged with violating park rules in violation of federal law. He pleads guilty and faces jail time.

**Judge:** Now that you've heard the scenario, each of you is the judge. When deciding on an appropriate sentence, the judge looks to the facts and circumstances of the case. I'd like to remind you that aggravating factors would favor making the sentence more severe, and mitigating factors would favor making the sentence less severe. After I give you a factor, you can raise your hand and tell me if it is aggravating or mitigating and how that factor would affect your sentencing decision.

How would you sentence Tim if:

### AGGRAVATING FACTORS

1. This is not the first time Tim has set off fireworks in the park in violation of park rules.
2. Thousands of acres have been damaged as a result of the fire.
3. The authorities had to spend more than \$200,000 to get the fire under control.
4. One firefighter suffers burns and smoke inhalation while battling the fire.

### MITIGATING FACTORS

1. He just turned 18 years old and he does not have a criminal record.
2. He is on delayed entry into the military and is set to start active duty in the fall.
3. He cooperates with the authorities and consents to a search of his van when they arrive.

**Judge: To wrap up the exercise,** I will ask you to work with the person next to you and weigh the totality of **all** of the factors and decide what your ultimate sentencing decision is. Then we will discuss.

**Note:** This exercise is based loosely on alleged violations of 16 U.S.C. § 3 and § 551 (violation of national park rules).