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“The pursuit of justice is a team effort.”

Newsletter

Legal News Briefs for Law Libraries & Defense Attorneys

CONGRESS HARD AT WORK TO ELIMINATE MANDATORY MINIMUM SENTENCES, REINSTATE PAROLE & INCREASE GOOD TIME!

INTRODUCTION - As the political climate begins to change there are at last new potentially favorable developments taking place in congress to help defendants and their families. This report is designed to provide an update concerning this information.

I. Fairness in Cocaine Sentencing Act of 2008 - On January 17, 2008 a long-awaited bill was introduced in the House of Representatives. The Fairness in Cocaine Sentencing Act of 2008 (HR. #5035) was introduced by Representative Scott of Virginia and sponsored by Representatives from California, Florida and Georgia. This bill which is currently being reviewed by the House Judiciary Committee would eliminate increased penalties for cocaine offenses where cocaine involved was cocaine-base and would eliminate mandatory minimum sentences for these offenses. It would also create new alternative sentencing programs involving drug treatment and diversion programs for cocaine users instead of long

terms of active incarceration. This bill to eliminate mandatory minimum sentences could potentially assist thousands of defendants receive an early release and it is critical that you write your congressional representatives to express your strong support for the passage of this bill.

II. Second Chance Act. Many defendants and their families were very excited when they heard that President Bush had finally signed into the law the Second Chance Act of 2007 on April 7, 2008. Although this Act has provided funding to expand provisions for ex-offenders to reenter society through training and drug treatment, it is not the “Second Chance Act” that defendants and their families have long been waiting to be enacted. The Second Chance Act for Ex-offenders of 2007 (H.R. #623) is unfortunately still stuck in committee in Congress (more on that below).

The Second Chance Act of 2007 which has been signed by President Bush provides money for demonstration grants to be used by state and local governments to enhance reentry services, mentoring grants, substance abuse treatment, family drug treatment programs, and various reentry programs designed to help defendants who have been or are being released to reintegrate themselves into society. **This Act does NOT do anything about reinstating parole, increasing good-time or, provide**

any way of helping a defendant be released from prison earlier.

III. Second Chance for Ex-Offenders Act 2007. The Second Chance for Ex-Offenders Act of 2007 is the bill to get excited about. Under this bill, once it would become law, qualifying federal inmates would be eligible to apply for expungement upon completion of all sentencing requirements of some of their prior offenses, after obtaining the expungement, those federal ex-offenders would not have to report the expunged offense - even if asked directly by a prospective employer, excluding law-enforcement positions. This bill also has provisions that would provide for reinstating parole and more than triple good time credits for federal inmates as well as special early-release provisions for elderly federal offenders.

As stated above, unfortunately this law is still stuck in Congress. Without popular support, this proposed legislation may continue to languish in committee. We urge you to have your family members and friends write to your congressional representatives urging them to pass the Second Chance for Ex-Offenders Act. Sponsors of this legislation are:

- Rep. Danny K. Davis of IL
- Rep. Jesse L. Jackson, Jr. of IL
- Rep. Janice D. Schakowsky of IL
- Rep. William L. Clay of MO

- Rep. Gwen More of WI
- Rep. Charles B. Rangel of NY
- Rep. Jose E. Serrano of NY
- Rep. Major R. Owens of NY
- Rep. John Conyers of MI

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Rep. Sheila Lee Jackson of TX
Rep. Cynthia A. McKinney of GA
Rep. Bernie G. Thompson of MS

NLPA is monitoring this critical legislation and will keep inmates updated as to the status of elimination of mandatory minimum sentences, reinstatement of parole, increasing good-time, and any other positive developments that can help defendants reduce their time in prison.

NOTE: If you would like to have our attorneys conduct a review of your case to determine what post-conviction options may be available to you, please contact us today!

CRACK COCAINE RE-SENTENCINGS: MORE THAN 3,000 DOWN, 17,000 TO GO

Since the new federal sentencing guidelines for crack cocaine offenses retroactively went into effect over a month ago, more than 3,000 inmates have had their prison terms reduced. The sentencing commission has estimated that about 20,000 inmates are eligible for the reduced sentences. The U.S. Sentencing Commission approved the retroactive application of the new guidelines after a two-decade debate over the fairness and efficacy of laws that have punished dealers of crack cocaine much more severely than those who sell powder cocaine. The disparity has weighed particularly hard on African Americans, who represent about 90% of the defendants prosecuted for crack offenses in federal court. When the rules were approved, the commission deferred the effective date until March 3 to give courts time to prepare.

Dozens have actually been released due to the fact that their time served exceeds their amended sentences, but many others who should have been released have not. Who is to blame? Some of the delay is the result of bureaucratic red tape, due in large part to the fact that Federal judges did not approve a plan for processing requests for sentence reductions until five days before the new rules were to go into effect. However, a significant amount of the delays are the result of opposition from the Justice Department. Should we be surprised that the Justice Department, which has vehemently supported guidelines sentences since the system went into effect, is now fighting the release of inmates which the new guidelines now say should be freed? Of course not. The Justice Department thrives

on its own double standards. However, when push comes to shove, and these cases come before the courts, the Justice Department does not have legitimate arguments to make in support of no reduction for many of the eligible crack cocaine offenders.

This is why its more important than ever to obtain professional legal support to help in this battle. The Federal Public Defenders are doing what they can, but they are already spread to thinly with existing case loads, and are dealing with significant opposition. In Dallas, one judge has refused to allow federal defenders to represent crack offenders in his court, saying they have no right to counsel at this stage of the proceedings. After that ruling, the federal public defender in Dallas, Richard Anderson, sent out a mass mailing to several hundred eligible inmates to help them prepare their cases. Many of the inmates' applications are incomplete or have errors. The complexities of federal sentencing law have caused added confusion. "The playing field isn't very level," Anderson said. Lee T. Lawless, a federal public defender in St. Louis, said his office had a standing agreement with the U.S. attorney that unless an inmate had posed a clear public safety threat or had received an unusually lenient sentence, the government would not stand in the way of the reductions. But in such situations, the determinations as to who poses a threat and who received a lenient sentence remains within the province of the U.S. Attorney. Parks N. Small, a federal public defender in Columbia, S.C., said his office had been engaged in "triage" for months to make sure prisoners eligible for immediate release received attention. There, about 80 sentence-reduction orders were signed the first week of March.

In other jurisdictions, prosecutors and judges are moving more deliberately. Some federal law enforcement officials defend the approach, noting that the new rules do not automatically entitle inmates to the lower sentences, and that judges are required to consider such factors as whether they pose a danger to the community in weighing early releases. Common sense dictates that this should not be the case. Federal judges already had an opportunity to consider the danger posed to the community by these individuals when they sentenced them under the old guidelines. Therefore, their sentences should be reduced as if the new guidelines were in effect at the time they were actually sentenced. If a judge chose to sentence a defendant at the bottom of the applicable range under the old guideline, that inmate is at least entitled to be re-sentenced at the bottom of the new applicable range under the amended guidelines. The only factors that the judge

should be considering at re-sentencing, is whether an even more lenient sentence is called for because there are more things that the judge can take into consideration in light of the recent Supreme Court decisions in Kimbrough v. United States, 128 S.Ct. 558 (2007) and Gall v. United States, 128 S.Ct. 586 (2007). For example, many of these inmates have exemplary prison disciplinary records. This is a factor that would not have been taken into consideration at the original sentencing. Many other factors can now be considered, which could result in a sentence even shorter than what is called for by the guideline amendment alone. NLPA has been working diligently on new arguments in support of this, and any inmate eligible for the reduction should be making these arguments. Hiring private counsel can greatly speed along the re-sentencing process, and hiring NLPA to assist counsel will make it that much faster and effective.

IMPROPER INDICTMENTS IN OHIO

At its most basic level, a crime consists of an actus reus and a mens rea. The mens rea is the culpable mental state and the actus reus is the outlawed act. As such, an indictment in a criminal case must charge that the accused acted with the culpable mental state and committed an outlawed act. Section 10, Article I, Ohio Constitution; Dillingham v. State (1855), 5 Ohio St. 280. In Dillingham, the Court stated that an indictment that fails to list all of the elements of a crime is "neither consistent with general principles nor constitutional safeguards, to allow a man to be thus put to trial upon a criminal charge in the dark." Id. at 285. Unfortunately, the state of Ohio had long ignored the basic requirements of a criminal indictment, in that indictments long ignored the charging of the mens rea element of the crime.

The mental state of the offender is a part of every criminal offense in Ohio, except those that plainly impose strict liability. State v. Lozier (2004), 101 Ohio St. 3d 161. In Lozier, the Court stated that "[w]hen the section defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. When the section neither specifies culpability nor plainly indicates a purpose to impose strict liability, recklessness is sufficient culpability to commit the offense." Thus, "recklessness is the catchall culpable mental state for criminal statutes that fail to mention any degree of culpability, except for strict liability statutes, where the accused's mental

state is irrelevant.”

In an effort to correct this long-standing indictment deficiency, the Ohio Supreme Court issued its decision in State v. Colon, No. 2008-Ohio-1624 (April 9, 2008). In Colon, the defendant was convicted of robbery pursuant to Ohio Revised Code § 2911.02(A)(2). The indictment charged that the defendant, “in attempting or committing a theft offense. . . or in fleeing immediately after the attempt or offense upon [the victim, the defendant] did inflict, attempt to inflict, or threaten to inflict physical harm.” This language was again reflected in the instructions to the jury. The defendant was thereafter found guilty of robbery by the jury.

On appeal, the defendant argued that his state constitutional right to a grand jury indictment and state and federal constitutional rights to due process were violated when his indictment omitted an element of the offense. The Ohio Supreme Court agreed with the defendant. The Court found that the indictment failed to list a mens rea element for the crime. As the robbery statute did not specify a particular degree of mental culpability, the state was required to charge and to prove that the defendant acted recklessly.

The Court next addressed whether the defective indictment issue could be raised for the first time on direct appeal. Finding that such errors “permeate the entire conduct of the trial from beginning to end,” the Court found that such errors of a structural nature mandated a finding of *per se* prejudice.” As the error was one in which substantial rights were violated, the issue was one deemed appropriate for direct appeal in those cases where the issue was not preserved for review.

The question then becomes whether the issue of a defective indictment can be raised for the first time on collateral review. Unfortunately, the Court on Colon failed to address the issue of retroactive application to cases on collateral review. For “a new rule to be retroactive to cases on collateral review ***, the Supreme Court itself must make the rule retroactive. *** Additionally, the Supreme Court does not make a rule retroactive through dictum. Multiple cases can, together, make a rule retroactive, but only if the holdings in those cases necessarily dictate retroactivity of the new rule.” State v. Webb (2005) 2005 Ohio 3839. Supreme Court decisions regarding retroactivity hinge upon the rule announced in Teague v. Lane, 489 U.S. 288, 109 S.Ct. 1060 (1989). In Teague, the Court noted that new rules of constitutional procedure would apply if the new rule involves “those procedures that are implicit in the concept of

ordered liberty.” Teague, 489 U.S. at 311. Such rules vindicate two discreet concerns: the fundamental fairness of the underlying procedure; and the accuracy of that underlying proceeding. Saffle v. Parks, 494 U.S. 484, 495 (1990).

NLPA believes that a strong argument could be made that the Colon decision applies retroactively to cases on collateral review. The Court in Colon spoke of errors permeating the entire trial and the inability of the defendant to properly defend himself or of the court to “serve its function as a vehicle for determination of guilt or innocence.” Further, the Court traced the right to be properly charged back to at least 1855. Such factors tend to show that the idea put forth by the Court in Colon implicates a rule of procedure entwined with the concept of ordered liberty.

Clearly, the basis of any criminal case is the indictment. As such, it is imperative that the indictment put forth the necessary elements of the charged crime. As with all issues involved in a criminal case, NLPA has been at the fore in protecting defendants’ rights in a criminal case, from the time of indictment until all avenues of relief have been pursued. NLPA notes that although the Colon decision is limited to defendants in Ohio, similar arguments may be possible in other jurisdictions. Should you have concerns that your rights to be indicted properly have been violated, contact NLPA immediately, and we will help you in your fight for justice!

CASES YOU CAN USE

US v. Verdin-Garcia, No. 06-3354: Where the warnings given and other circumstances establish a prisoner’s awareness of the possibility of monitoring or recording, his decision to take advantage of the privilege of using a prison telephone implies consent to the conditions placed upon it. Defendants’ convictions and sentences for crimes relating to their leadership of a large marijuana and methamphetamine trafficking conspiracy are affirmed over claims that: 1) wiretaps carried out during the investigation were invalid and wiretap-recorded evidence should have been excluded from their trial; 2) translations of wiretapped conversations were improper and should have been excluded; 3) one defendant’s telephone calls made from prison after his arrest were improperly recorded for use as voice exemplars and that derivative evidence should have been excluded; and 4) the sentences were incorrectly calculated and the life terms were unreasonably long.

US v. Gabaldon, No. 06-2348: Dismissal of

pro se federal prisoner’s motion under 28 USC §2255 on the ground that it was filed more than one year after his convictions became final is vacated where the district court abused its discretion in sua sponte dismissing the action on this record in light of petitioner’s showing of state interference with his filing, specifically, his placement in segregation and the confiscation of all his legal materials by prison officials while the deadline for filing expired.

US v. Pruett, No. 06-3500: In light of Watson v. US, 128, S. Ct. 579 (2007), which ruled that “a person does not ‘use’ a firearm under 18 USC §924(c)(1)(A) when he receives it in trade for drugs”, US v. Cannon, 88 F.3d 1495 (1996) is no longer good law on that point and defendant’s motion based on an exchange of drugs for a gun is reversed and remanded.

Arrington v. Daniels, No. 06-35855: The Bureau of Prisons (BOP) violated §706(2)(A) of the Administrative Procedure Act (APA) when it promulgated a regulation categorically excluding from eligibility for early release under a particular statute, those whose “current offense is a felony...[t]hat involved the carrying, possession, or use of a firearm or other dangerous weapon or explosives[.]”

NLPA CONTINUES A TREND OF EXCELLENCE -A RECAP ON OUR SUCCESSFUL CASES FOR 2007 & FIRST QUARTER 2008

During the year of 2007 NLPA had 52 successful cases. Thus far in 2008 we have had an additional 11 successful cases. These cases are broken down further below. What have you got to lose...other than prison time!!

Ramos, L: NLPA assisted counsel for Mr. Ramos in the sentencing arguments for his case (US v. Ramos, USDC ND of OH, Case No. 1:06-cr-00338-JG-12). The PSI in his case called for a guideline range of 188-235 months. As his sentencing he received a term of imprisonment of 110 months - saving him 78 - 125 months (at least 7 years in prison).

Clemons, S: NLPA assisted Ms. Clemons’ counsel with the sentencing stage of her case (US v. Clemons, USDC WD of PA, Case No. 05CR00143). Her PSI called for a guideline range of 46-57 months. At her sentencing she received only 37 months - saving her more

than a year in prison.

Campbell, E: NLPA assisted counsel for Mr. Campbell with an appeal in the Fourth Circuit Court of Appeals (Case No. 02-4119). His appeal was granted and at the new hearing the court issued a sentence of **TIME SERVED! Mr. Campbell was ordered to be released.**

Rojas, M: NLPA assisted Mr. Rojas and his counsel in the sentencing stage of his case (US v. Rojas, USDC ND of OH, Case No. 06cr00184). Mr. Rojas' PSI called for a guideline recommendation of 168 - 210 months. At his sentencing he received only 87 months - **saving him more than 7 years in prison!**

Propst, M: NLPA assisted in the case of Mr. Propst to help counsel raise issues at sentencing that would fight his guideline recommendation. The PSI in his case (US v. Propst, USDC WD of VA, Case No. 3:06-cr-00017-nkm-12) called for a guideline range of 135-168 months followed by a consecutive recommendation of 60 months followed by another consecutive term of 300 months (495-528 months). At his sentencing the court imposed a sentence of 240 months- **saving him more than 20 years in prison!**

Johnson, C: NLPA assistance counsel for Mr. Johnson with the sentencing stage of his case. His case originated out of the USDC ND of NY, Case No. 3:06-cr-00308-1. His PSI recommended a mandatory minimum of 120 months. At his sentencing he received a total of 84 months - saving him 3 years in prison.

Chilcott, T: NLPA assisted counsel in the Chilcott case out of USDC MD of FL (Case No. 05CR00052). His PSI recommended a guideline ranging to 175 months. At his sentencing the judge imposed 162 months - saving him a little over a year in prison.

Reese, S: NLPA assisted counsel with a Motion for Delayed Appeal in the State of Ohio (Case No. 01-CR108). Much of the arguments in the appeal were related to the recent decision in the *Foster* case. As a result of the research provided to Mr. Reese's attorney, his appeals rights WERE reinstated.

Wilson, D: NLPA assisted counsel in the case of Mr. Whitley out of the USDC SD of NY (Case No. 1:02-cr-01543-DLC-1). His PSI recommended an offense level of 262-327 months. At his sentencing he only received **72 MONTHS - saving him more than 21 YEARS IN PRISON!**

Fields, K: NLPA assisted counsel in the case of Mr. Fields with his sentencing in the USDC ED of TN, Case No. 3:05-cr-00142-3.

His PSI recommended 168-210 months with a mandatory 240 months in prison. His judge imposed 144 months - saving him more than five years in prison. In addition to our sentencing research we also requested specific institution designation as well as placement to the drug treatment program - both of which were recommended by the judge (and also could save Mr. Fields an additional year in prison while still being close to his family).

King, M - NLPA assisted counsel for Mr. King with his motion to withdraw plea and his sentencing which was to be held in the USDC ND of OH (Case No. 06cr00094). Mr. King's PSI recommended a guideline range of 188-235. At his sentencing he received a term of imprisonment of 108 months - saving him more than 10 years in prison!

Joiner, K- NLPA assisted counsel for Mr. Joiner with his sentencing case that was being heard in the USDC of SC (Case No. 3:06CR00059-MBS-4). His PSI was recommending a guideline range of 262-327 months (which included a mandatory minimum of 240 months). At his sentencing he received only 168 months- **saving him more than 13 years in prison!**

Upton, O - NLPA assisted counsel in the case of Mr. Upton with the plea negotiations and sentencing in his case (USDC of OR, Case No. 3:05-CR-00299-1). Mr. Upton entered into a plea agreement stating that he would receive the low end of his recommended guideline range which was 188 months. At his sentencing the judge imposed 180 months as the sentence saving him even more time.

Marion, I - NLPA assisted Mr. Marion's counsel in negotiating the best possible plea agreement and raising sentencing arguments to help fight his PSI recommendation of 151-188 months. His case was heard in the USDC MD of FL (Case No. 06cr00088). At his sentencing hearing he received a term of 108 months - saving him more than 6 years in prison.

Ayon-Franco, J - NLPA assisted counsel for Mr. Franco with arguments designed to help his chances of victory at trial. His case was heard in the US District Court for Georgia (Atlanta Division), Case No. 06cr00269. Working together with counsel NLPA prepared research and motions for this purpose. At the trial **the jury returned a NOT GUILTY verdict** and Mr. Franco has since been acquitted. What a major victory!!

Robinson, B - NLPA assisted counsel with the trial and sentencing in Mr. Robinson's case. His case was being heard in the United States District Court, Eastern District of

Louisiana (New Orleans), Case No. 2:05cr00223-4. After the preparation of several pretrial motions, it was determined with counsel that a plea would be more favorable to Mr. Robinson and negotiations began. After pleading, Mr. Robinson received a PSI report that recommended 8-14 months. At his sentencing, the judge imposed 5 years probation - saving Mr. Robinson from serving ANY time in jail.

Lambert, C. - NLPA assisted counsel in the case of Mr. Lambert to address sentencing arguments. His case was in the United States District Court, Southern District of Alabama (Mobile), Case No. 1:05cr00054-1. His PSI recommended a guideline range of 292-365 months. At his sentencing, Mr. Lambert received 151 months and received a recommendation from his judge for the drug treatment program which, in turn, will help to reduce his serve-time even further. This saved Mr. Lambert well **over 12 years in prison!**

Heath, N. - NLPA assisted Mr. Heath and his counsel in developing arguments to minimize his exposure at sentencing. His case was being heard in the United States District Court, Western District of New York (Rochester), Case No. 95cr06064. His PSI came back with a recommended guideline range of 70-87 months. At his hearing the judge imposed a term of imprisonment of 48 months - saving Mr. Heath more than 2 years in prison.

King, M. - NLPA assisted Mr. King's counsel in arguments to minimize his exposure. His PSI guideline range was 188-235 months. His case was in the United States District Court, Northern District of Ohio (Cleveland), Case No. 06cr00094. NLPA prepared research for counsel on issues and motion to withdraw his plea. Although the motion was not filed by counsel, at his sentencing Mr. King received 108 months - saving him more than 7 years in prison.

Miconi, G. - NLPA was hired directly by counsel for Ms. Miconi to assist with her sentencing arguments. Her case was in the United States District Court, South Carolina (Columbia), Case No. 06cr00021. The PSI recommended 46-57 months. At her sentencing the judge imposed 46 months which was the bottom of her guideline range.

Massie, Q.- NLPA was hired to assist Mr. Massie's attorney with the development of sentencing arguments. His case was heard in the United States District Court, Western District of Virginia (Charlottesville), Case No. 3:2004cr00031. The PSI in Mr. Massie's case recommended a guideline range of 210-262 months. Aside from sentencing arguments, NLPA also prepared a

designation request. At his sentencing, Mr. Massie received a prison term of 200 months - saving him 1-5 years in prison. We are still waiting to determine the outcome of the designation request as Mr. Massie is currently "in transit" in the BOP.

Nieto-Garcia, P. - NLPA assisted counsel for Mr. Nieto-Garcia with his sentencing case out of the ND of TX (Case No. 3:05-CR-00313-3). His PSI recommended a guideline range of 262-327 months. At his sentencing he received 108 months - saving him more than 13 years in prison!

Whittington, R. - NLPA assisted counsel for Mr. Whittington with sentencing research for his case out of the ED of LA (Case No. 2:05-CR-00243-9). However, his PSI recommended that he receive between 121-151 months. At his sentencing he received 87 months - saving him more than 3 years in prison.

Thompson, K. - NLPA assisted counsel in this case to prepare sentencing arguments to be filed in the ED of VA (Case No. 3:05-CR-00164-1). After a long process of arguing his PSI contents which recommended 87 - 108 months PLUS 120 months, the court adopted the new PSI received by the probation department and imposed 87 months keeping Mr. Thompson at the bottom of his guideline range.

Hawkins, D. - NLPA assisted at sentencing for Mr. Hawkins' counsel. His case was out of the ND of OH (case no. 5:06-cr-00505-PAG-1). He received a PSI recommendation of 360 to life. At his sentencing, he received 240 months - saving him many years in prison.

Shifflett, D. - NLPA is currently assisting counsel with the preparation of a 2255 motion in the federal court out of the WD of VA. As part of its research, NLPA prepared for counsel a motion for discovery to be produced. Although it doesn't usually happen, the court has granted this motion and scheduled oral argument to take place to hear the case. We are hopeful that the court will also agree with our arguments on the motion itself and remand the case and this victory definitely gives a good feeling.

Gary, L - (USDC MD FL Case No. 2:06-cr-00125) NLPA assisted at sentencing in fighting a 135-168 month recommendation in the PSI. At sentencing Mr. Gary received 121 months - saving him more than a year in prison.

Smith, J - (USDC ED VA Case No. 1:06-CR-502). NLPA assisted at sentencing for Mr. Smith. His PSI recommended 262-327 months. He received 15-21 months with

a 60 month mandatory for a firearm. This saved him a more than 200 months in prison!

Patrick, Jr., R- (USDC SD TX Case No. 2:06cr00228-6). NLPA was hired to assist with the sentencing stage of Mr. Patrick's case. His PSI recommended 188-235 months. At sentencing he received 151 months - saving him more than 3 years in prison.

Tyler, K - USDC SC Case No. 5:04-cr-00964-MBS-1). NLPA assisted counsel for Mr. Tyler with arguing against his PSI which recommended 360 months to LIFE. At his sentencing he only received 168 months - saving him a lifetime in jail!

Rife, E - NLPA assisted counsel for Rife in the preparation of a State of South Carolina post-conviction motion. After nearly two years of working on the development of expert materials and crime scene recreation as well as his existing arguments of self-defense against the murder charges for which he was convicted, NLPA received notification in August that Mr. Rife's motion was granted!

Bellamy, R- NLPA assisted counsel for Mr. Bellamy in the preparation of sentencing research. His case was being heard in the US District Court Western District of New York (Rochester Division), Case No.: 6:04-CR-06177-1. His PSI was recommending a guideline range of 240-262 months. At his sentencing he received 48 months and 60 months to run consecutive (totaling 108 months) - **saving Mr. Bellamy more than 11 years in prison!**

Mancha, G- NLPA assisted counsel with an appeal to the Eleventh Circuit (Case No. 06-16201). This appeal was after NLPA received a notification from counsel that our previous 2255 motion prepared was granted as well. The defendant's appellate rights were reinstated and, the Eleventh Circuit then granted his appeal and ordered a resentencing.

Brown, J.R.- NLPA assisted counsel in the preparation of a State of Tennessee post-conviction motion. Among other issues raised was the issue of ineffective assistance of counsel at various stages of Mr. Brown's case. The court agreed with his issues and **vacated his conviction!**

Shupe, R. - NLPA prepared a case evaluation for Mr. Shupe's State of Virginia case. The evaluation attorney used our research to pursue a habeas corpus motion with Mr. Shupe. The court granted his motion and reinstated his appeal rights based on this research!

Marion, Jr, I. - NLPA assisted Mr. Marion's counsel in the preparation of sentencing research. His case was heard in the United States District Court, Middle District of Florida (Case No. 06CR00088). The PSI in this case recommended a guideline range of 188-235 months. At his sentencing the judge imposed a term of imprisonment of 132 months - saving Mr. Marion more than 5 years in prison!

Gordon, C - NLPA assisted Mr. Gordon in developing sentencing arguments to be used in his case which was heard in the United States District Court, Eastern District of New York (Case No. 04cr01024 & 04cr693). The plea agreement entered was in agreement to receive 262 months in prison. At the plea hearing, the transcripts showed a recommended guideline range of 188-235 months. At his sentencing, Mr. Gordon received 5 years **probation** - saving him from serving any further prison time!!!

Heredia, R. - NLPA assisted counsel for Mr. Heredia in preparing sentencing research to help attack his PSI guideline range of 18-24 months. His case was heard in the United States District Court, Eastern District of Wisconsin (Case No. 2:06cr00152-1). At the sentencing hearing, the judge imposed 4 years **probation!** This saved Mr. Heredia from serving any prison time.

Cunningham, E. - NLPA assisted counsel for Mr. Cunningham in the preparation of research designed to keep his sentence at the lowest possible level. This case was heard in the United States District Court, Northern District of Alabama (Case No. 2:06cr00255-1) The PSI in his case recommended a guideline range of 235-293 months. At sentencing the judge imposed a prison term of 180 months - saving Mr. Cunningham more than 5 years in prison!!

McSwain, M - NLPA assisted Mr. McSwain's counsel with research for his sentencing hearing. His case was heard in the United States District Court for the Northern District of Illinois (Rockford Division #3:05-CR-50082-5). The PSI in Mr. McSwain's case recommended a guideline range of 324-405 months. At his sentencing the judge imposed 300 months - saving Mr. McSwain more than 8 years in prison!

Flowers, DB - NLPA assisted Mr. Flowers' counsel with raising arguments to be used at his sentencing. His case was heard in the United States District Court for the Middle District of Florida (Orlando Division #6:06cr00125). The PSI in the case recommended 210-262 months. At the sentencing hearing, the court imposed a sentence of 141 months - **saving Mr. Flowers**

more than 10 years in prison!

Brown, W - NLPA assisted counsel with the sentencing research in the case of Mr. Flowers which was heard in the United States District Court for the Southern District of New York (Foley Square division # 1:04-CR-00113-1). The PSI in Mr. Brown's case recommended a guideline range of 262-327 months. At his sentencing he received a sentence of 260 months - saving Mr. Brown 67 months in prison!

Brooks, T - NLPA assisted counsel for Mr. Brook's case with research to help at the sentencing stage of his case. The case was heard in the United States District Court for the Middle District of Florida (Fort Myers Division #2:06-cr-00126). The PSI in the case recommended 168-210 months. At the sentencing hearing the judge imposed a sentence of 140 months - saving Mr. Brooks more than 5 years in prison!

Fulton, D - NLPA assisted counsel in the case of Mr. Fulton in the preparation of a case evaluation and statistical research to identify issues available for post-conviction relief and statistical evidence of Mr. Fulton's case as compared to other cases throughout the entire state of Florida, where Mr. Fulton's case was heard. NLPA received notice that the courts did grant the motion in part based on ineffective assistance of counsel issues that were raised in our evaluation.

Brinson, IC - NLPA assisted counsel with the preparation of a post-conviction motion pursuant to 18 U.S.C. §2255 for Mr. Brinson's case which was heard in USDC SD FL (Miami Division) Case No. 04-cr-14027 & 2:07-cv-14212. The Report & Recommendation was issued recommending that the motion be granted. In the court's decision issued this month, the judge agreed and granted the motion. They have now ordered a re-sentencing to take place.

Williams, S. - NLPA assisted counsel for Mr. Williams in the preparation of sentencing research designed to argue for the lowest sentence possible in his case which was heard in the USDC MD of FL (Fort Myers Division) Case no. 06-cr-00088. The PSI in the case was recommending a guideline range of 135-168 months. At the sentencing the judge imposed 97 months - saving Mr. Williams more than 5 years in prison!

Joseph, J - NLPA assisted Mr. Joseph's counsel in the preparation of a post-conviction motion pursuant to 18 USC §2255 which was filed in the USDC SD of FL (Miami Division) Case No. 05-cr-20467 & 06-cv-22461. In the court's decision to the motion for reconsideration they advise Mr.

Joseph now has the right to appeal.

Bedell, K - NLPA assisted counsel for Mr. Bedell in the preparation of research for sentencing. His case was being heard in the USDC ND of OH (Cleveland Division) Case No. 06cr00564-CAB-5. The PSI issued in his case recommended a guideline range of 188-235 months. At the sentencing the judge imposed a sentence of 110 months - saving Mr. Bedell more than **10 years** in prison!

Angel-Salas, J - NLPA assisted counsel for Mr. Salas with his sentencing which was heard in the United States District Court for the Western District of Texas (Case No. 5:06-CR-00553-3). His PSI recommended a guideline range of 262-327 months. His sentencing judge imposed a sentence of 180 months, however, saving Mr. Salas more than twelve years in prison!

Bekic, M - NLPA assisted counsel for Mr. Bekic with his sentencing. His case was heard in the USDC WD TN (Case No. 2:06-cr-20439-1) and his PSI recommended a guideline range of 180 months. At his sentencing the court imposed a 60 month sentence instead - **saving him more than 10 years in prison!**

Blackwell, R. - NLPA assisted Mr. Blackwell's attorney with a direct appeal in the Third Circuit U.S. Court of Appeals (Case No. 04-1262). Mr. Blackwell's appeal was remanded in part for a re-sentencing.

Torres, J. - NLPA assisted counsel for Mr. Torres in arguing his PSI recommended guideline range of 87-108 months. His case was heard in the USDC WD of NY (Case No. 1:03-CR-00033-20). At his sentencing the court imposed a sentence of 97 months - saving him from the additional 11 months the high end of his PSI was recommending.

Rodebaugh, R - NLPA assisted counsel for Mr. Rodebaugh in raising arguments against the recommended guideline range of 360 months to life. His case was heard in the US District Court for the WD of MO (Case No. 2:06-CR-04002-1). At his sentencing the court imposed 262 months - saving him more than 100 months in prison! We are currently also now assisting in Mr. Rodebaugh's appeal and hope to report another successful outcome on this as well.

John, T. - NLPA Assisted counsel for Mr. John in the preparation of sentencing research designed to attack the 210-262/ 10-life guideline range that was recommended by the government. His case was heard in the USDC ED of VA (Case No. 2:05-cr-00153-1). At his sentencing the judge imposed a sentence of 105 months - **saving Mr. John more than 13 YEARS in prison!**

Davis, T. - NLPA assisted counsel for Mr. Davis in attacking his PSI recommendation of 92-115 months. His case heard in the USDC SD of NY (Case No. 7:06-CR-00913-2). At his sentencing hearing he received 72 months - saving him more than 3 years in prison!

Edouard, K. - NLPA assisted Mr. Edouard's counsel in the preparation of sentencing research designed to attack the government recommended guideline range of 210-262 months. His case was heard in the USDC SD of NY (Case No. 07cr00023). His sentencing judge imposed a term of imprisonment of 108 months - saving Mr. Edouard nearly 13 years in prison!

Davis, D. - NLPA was hired directly by counsel in the matter of Mr. Davis to assist in the preparation of his direct appeal. His case was heard in the Ninth Circuit Court of Appeals (Case No. 06-10527). The court vacated and remanded his case to the district court with specific instructions on the modification of his sentence.

Dunson, C. - NLPA assisted counsel in Mr. Dunson's case to help attack the mandatory maximum 120 months for a weapon and guideline range of 130-162. His case was heard in the USDC SD of IN (Case No. IP06-CR-0147-01). At his sentencing he received 110 months - saving him approximately 4 years in prison!

Gray, S&M - NLPA assisted counsel in the case of the Grays (a husband and wife) heard in the USDC of SC (Case No. 4:05-CR-00888). At the sentencing Mr. Gray received only 11 ½ years while his wife received five years - saving them both a significant amount of time.

Thompson, E. - NLPA assisted counsel for Mr. Thompson in the preparation of sentencing research designed to attack the recommendation of the government that he receive between 324-405 months! His case was heard in the USDC ED of AR (Case No. 4:06-cr-00220-1). At his sentencing the judge imposed only 120 months - **saving Mr. Thompson more than 23 YEARS in prison!!**

Strode, C. - NLPA assisted counsel for Mr. Strode in the preparation of sentencing research designed to attack the guideline recommendation of LIFE in prison. His case was heard in the USDC SD of IN (Case No. IP06-CR-0082-02-B/F). At his sentencing the court imposed a term of imprisonment of 192 months - saving Mr. Strode a number of years in prison (by avoiding a life sentence)!

White, E.D. - NLPA assisted Mr. White in the form of preparing a case evaluation to outline his options in pursuing a motion

pursuant to the retroactive guidelines (§3582). This evaluation was prepared through the authorization of Attorney Charles Murray. Mr. White ultimately filed his 3582 motion pursuant to the recommendation of NLPA's evaluation and arguments contained therein. His case was heard in the USDC WD of VA (Case No. 5:04-CR-30068-1) where he received a reduction from 210 to 168 months - saving him more than 3 years off of the original sentence he was serving! If you or a client of yours is a federal defendant who believes you may have grounds to pursue a motion to argue the newly amended retroactive guidelines - contact NLPA today!

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