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“The pursuit of justice is a team effort.”

Newsletter

Legal News Briefs for Law Libraries

NLPA ANNOUNCES PARALEGAL STUDIES PROGRAM FOR INMATES

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Time. As time passes by, certain matters are for certain. Time will tick by. We will all get older. And the decision to advance educationally and vocationally is clearly within the control of each one of us. *Have you thought about what awaits you when you leave prison?*

Since 1986, *National Legal Professional Associates* has been actively involved in advising, consulting, and assisting attorneys. This month, NLPA announced a new level of assistance designed to help both the current bar and those desiring to explore a new career. Through the experienced offices of Carlingford University, NLPA has

begun to administer a national paralegal studies program designed to offer those who complete the course of study a better understanding of the legal The evolution of law in our society, its history, role, and function is a complex yet fascinating area of study. Designed as an easily understood and enjoyable distant learning program, NLPA has designed a paralegal studies course for those with time on their hands, for those seeking a new career, and for those simply wanting to understand one of the fastest growing fields of professional employment in our society.

The Paralegal Studies Program includes courses on Criminal Law, Civil Law, Contracts, Torts, The Judiciary, Legal Writing, and much more. In a program designed to be completed in eight months to two years from any location, each student will receive the personal attention required in any successful distant learning program. The self-driven curriculum is clear yet comprehensive, and upon completion each student will be knowledgeable enough to sit for one of the national certification examinations for paralegals. Again, this is a program designed for those at home, still in school, incarcerated, or currently employed. Yes, it is designed for *you!*

The entire Paralegal Studies Program tuition is available for only \$2,895.00. For qualified students, this tuition may even be financed! Through an installment payment plan, you or your family can help get you ready for the world on the outside, a world that requires a job once you hit the halfway house. NLPA's goal is not

process and the opportunity to enter the legal field as a para-professional. In sum, we now have a paralegal program, designed especially for those incarcerated, economic but rather professional. We want to assist those who want to pursue a new career, those who want to add to their education, or those who just desire another level of personal fulfillment.

The Bureau of Prisons may also be willing to help you in this program. Based on our initial conversations with several education departments at BOP facilities, your institution might even be willing to help underwrite the cost of the program pursuant to Program Statement 1315.07 if you are a law librarian in your institution.

According to the United States Department of Labor Statistics, the median annual earnings of paralegals were \$35,360.00. This compensation surpasses many other para-professional positions. In addition, the starting salaries in the field currently exceed \$38,000 per year.

If you are interested in a career as a paralegal, or beginning to prepare for your release, we urge you to consider a challenging opportunity in research, drafting, trial preparation, and working with clients; we urge you to consider enrolling in this new and exciting program.

To enroll or to receive additional information, please contact:

Registrar
NLPA Paralegal Studies Program
Suite 1000
11331 Grooms Road
Cincinnati, Ohio 45242

ready and waiting for your enrollment.

ParalegalStudies@nlpacincinnati.com

THIS NEWSLETTER IS DESIGNED TO INTRODUCE YOU TO NLPA. AS NLPA IS NOT A LAW FIRM, PROFESSIONAL SERVICES ARE ONLY PROVIDED TO LICENSED COUNSEL IN ALL AREAS THAT INVOLVE THE PRACTICE OF LAW. NLPA HAS CREATED THIS PUBLICATION TO PROVIDE YOU WITH AUTHORITATIVE AND ACCURATE INFORMATION CONCERNING THE SUBJECT MATTER COVERED. HOWEVER, THIS PUBLICATION WAS NOT NECESSARILY PREPARED BY PERSONS LICENSED TO PRACTICE LAW IN A PARTICULAR JURISDICTION.

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NLPA STAYS INVOLVED WITH SUCCESSFUL 2255 MOTIONS

The previous month has brought additional good cheer to several of those federal defendants who have brought NLPA onto their defense teams. Working closely with counsel of record in areas of both research and drafting, NLPA is happy to report two successful Motions to Vacate filed under 28 U.S.C. 2255:

Stretching from FCI Three Rivers in Texas to FCI Terre Haute in Indiana, defendants heard good news recently. In the halls of Terre Haute, Joseph Barnette was very happy to hear that he is going to be re-sentenced. In his Western

District of Pennsylvania case, *United States v. Barnette*, Case No. 98-CR-5, Mr. Barnette had been sentenced to 276 months on federal drug charges. Due to Apprendi violations, Mr. Barnette, through his counsel Robinson & Brandt, requested that he be resentenced under 28 U.S.C. 2255. The District Post conviction motions continue to be both effective and fundamental in seeking relief after commitment. If NLPA can assist your counsel in either research or drafting of such pleadings, as was done with the firm of Robinson & Brandt above, please feel free to contact our research staff.

Q & A

Dear NLPA:

As a new inmate in the Federal system, I have heard much about the poor medical services. Is it as bad as everyone says?

Dear Friend:

On the whole, the medical services found at BOP facilities are better than those found in many HMO plans throughout this nation. That, though, is not saying much! Medical services are run just like an HMO with the number one goal being budgetary issues. The best advice to be given is not to get sick!.

Though most people go through the system successfully, there are the exceptions that reflect the true reality. No such exception is clearer than the case of Larry Bolin, 53, who died last month in Atlanta, Georgia.

In 1999, Larry was sentenced to

Court agreed.

In the case of *United States v. Rangel*, in the Southern District of Texas, Mr. Rangel had some similarly positive news this month. With the research and drafting assistance of NLPA, Mr. Rangel's counsel, also Robinson & Brandt of federal prison for approximately 44 months. He was incarcerated at FPC Atlanta. Prior to his sentencing, the federal district judge was apprised of his medical condition which required close monitoring of his blood coagulation rate because of the blood thinner being administered by his doctors to control a chronic health problem. Despite his pleas, despite the fact that he had used the administrative remedy process to obtain the medical care he needed, and in spite of the fact that FPC Atlanta, the Regional Office and Central Office had been contacted numerous times on his behalf by his wife, Jackie, at 53 years old, Larry Bolin died while in the custody of the Federal Bureau of Prisons. On a personal note, all of us at NLPA want to extend our heart-felt sympathy to Jackie and offer her our support in any way that we can.

On a tangent, we also note the case of Dr. Carlos Baez who was a staff physician at a Federal women's facility in Fort Worth, Texas. Several weeks ago, he was indicted for having sexual intercourse with three female inmates at FMC Carswell. He has since resigned, the charges and indictment are pending, and he is no longer receiving his \$122,000 annual salary!

Dear NLPA:

Cincinnati, Ohio, filed a 2255 Motion seeking to re-instate the defendant's appeal rights. Due to the ineffective assistance of counsel in not filing a notice of appeal, Mr. Rangel sought to regain his rights to appellate review. The Court of Appeals for the Fifth Circuit agreed.

I understand that Congress is considering some legislation to broaden our work opportunities in prison. Is this true?

Dear Friend:

A little over a month ago, H.R. 1829 was introduced with considerable backing in Congress. The proposed bill mandates to the BOP to create opportunities for vocational and educational programming for federal prisoners and emphasizes the creating of a transitional bridge back into society for federal prisoners.

While it is not perfect, it is by far the most pro-prisoner piece of legislation seen in recent years.

We will endeavor to keep you informed of its status.

Dear NLPA:

As a state inmate in Virginia, I understand that the fairly new DNA statute might be a way to get back into court. Do you have any ideas?

Dear Friend:

Many states now have DNA statutes that allow for testing to confirm the forensics associated

with genetic markers, especially as they relate to proving guilt or innocence. If you believe that such an avenue might be of assistance to you, please have your counsel contact NLPA as soon as possible.

A witness who was slated to testify against petitioner recanted, allegedly because petitioner threatened him and his family. The court allowed the State to present the witness' out-of-court statements through the testimony of officers present at his initial interview with the State. The court also precluded defense counsel from cross-examining the witness at trial, based on petitioner's "bad conduct." The operating question was whether this violated petitioner's Sixth Amendment rights. Inter alia, the appellate court held that the state court determination to preclude cross-examination of the witness entirely was an "objectively unreasonable" application of clearly established Supreme Court law, objectively unreasonable, and violated the constitutional right of confrontation. Further, without that testimony, the jury may well have concluded that the prosecution had not proven petitioner's guilt beyond a reasonable doubt. This not only violated defendant's constitutional rights, but it undermined the fact-finding and truth-seeking function of the trial. As the error was not harmless, the conviction could not stand.

The federal appellate court reversed the judgment of the district court and remanded for the entry of judgment conditionally granting the writ and ordering petitioner's release unless the State

What's New Around The Circuits

Second Circuit

Cotto v. Herbert, 2003 U.S. App. LEXIS 8326 (2nd Cir. May 1, 2003)

After he was convicted in state provided him a new trial within ninety days

Seventh Circuit

United States v. James, 2003 U.S. App. LEXIS 9199 (7th Cir. May 14, 2003)

In the United States District Court for the Southern District of Illinois, defendant was convicted of selling marijuana and possessing a gun in connection with that crime. He was sentenced to 270 months' imprisonment. Defendant appealed.

In the trial court, defendant offered the "defense" that his ancestors came from Africa so he was a Moorish national required to obey only those laws mentioned in an ancient treaty between the United States and Morocco. He demanded that the prosecutor, witnesses, and judge sign contracts promising to pay him for the use of his name. He refused to cooperate with defense counsel, who would not sign a compensation contract or support defendant's proposed defense. He also refused to cooperate with a mental examination. The psychologist who conducted that examination reported that he had no reason to think defendant was unfit for trial. The trial court accepted that assessment. Defendant's appellate counsel argued that the trial court

court for murder, petitioner sought a writ of habeas corpus in the United States District Court for the Southern District of New York. The district court denied the petition and granted a certificate of appealability.

erroneously declared defendant mentally fit. The trial judge should not have given weight to a psychological report that presumed defendant competent until defendant proved otherwise. However, the unusual nature of defendant's beliefs did not justify referring him for a mental exam; his other behavior was that of a person able to understand his surroundings.

The court affirmed defendant's conviction and sentence. It held that when considering whether a defendant is competent to stand trial, a district judge should not require the defendant to shoulder any burden and should not give weight to a psychological report resting on a view that defendants are presumed competent until they prove otherwise.

Similarly, the court acknowledged that many litigants articulate beliefs that have no legal support-- tax protesters who insist that wages are not income, that taxes are voluntary, or that only foreigners must pay taxes; or homeowners who contend that because their property can be traced to a land grant signed by President Fillmore their mortgages cannot be foreclosed. Sometimes these beliefs are sincerely held, sometimes they are advanced only to annoy the other side, but in neither event do they imply mental instability or

concrete intellect so deficient that trial is impossible.

Ninth Circuit

United States v. Iupeli Migi, 2003 U.S. App. LEXIS 10435 (9th Cir. May 27, 2003)

This appeal sought review of a

Any person who violates section 841(a)(1) of this title . . . by distributing [or] possessing with intent to distribute . . . a controlled substance in or on, or within one thousand feet of . . . a play-ground . . . is . . . subject to (1) twice the maximum punishment authorized by section 841(b) of this title; and (2) at least twice any term of supervised release authorized by section 841(b) of this title.

A "playground" is "any outdoor facility (including any parking lot

conviction on six counts of possessing and/or distributing drugs within 1000 feet of a "play-ground" and a subsequent sentence. The key issue turned on the court's definition of a play ground. The Ninth Circuit panel affirmed the district court decision, holding that basketball courts, softball fields, and skating rinks are "apparatus intended for the appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing *three or more separate apparatus intended for the recreation of children* including, but not limited to, sliding boards, swingsets, and teeterboards." The defendant conceded that the swingset was an "apparatus" under the statute, but claimed that the basketball court, the softball field, and the skating rink were not. Thus, he argued, only one "apparatus intended for the recreation of children" existed in the park, instead of the requisite three. Accordingly, the defendant urged that insufficient evidence

recreation of children" under 21 U.S.C. §860(e)(1), thus the area in which the defendant sold drugs was a "playground," and the district court properly enhanced his sentence.

Section 860(a) provides:

supported his conviction.

The appellate panel was not persuaded and held that basketball courts, softball fields, and skating rinks *are* each "apparatus intended for the recreation of children." Accordingly, the district court judgment was affirmed.

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About NLPA -

NLPA is a technical consulting firm, owned and staffed by attorneys, and dedicated to the professional mission of providing counsel, research, and related work product to members of the Bar. Our ownership structure includes attorneys licensed to practice before many local, state, and federal courts; however, NLPA is not a law firm and provides no "front line" legal services. On the other hand, we are much more than your typical paralegal service as our work is prepared by attorneys. Our sole purpose is to provide research and consulting assistance by lawyers, for lawyers . . . and their clients. With cutting-edge computer research capabilities, an experienced and top quality staff, and more than sixteen years' experience, NLPA is well-positioned to provide the types of assistance members of the Bar need.

You are important to us and we hope we can commence and maintain a long-term relationship with you. Please know that we are here to assist in all your needs.

If you would like to know more about the services we offer, please contact us at:

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