

NATIONAL LEGAL PROFESSIONAL ASSOCIATES

Case Analysis and Research Division
Margaret A. Robinson Advocacy Center
11331 Grooms Road, Suite 1000
Cincinnati, OH 45242
Fax (513) 247-9580
Telephone (513) 247-0082

MEMORANDUM

TO: ALL INTERESTED COUNSEL

FROM: NATIONAL LEGAL PROFESSIONAL ASSOCIATES

**RE: ANOTHER NLPA VICTORY! DOWNWARD DEPARTURES
BASED ON CRIMINAL HISTORY CATEGORY OVER-
REPRESENTING THE DEFENDANT'S PAST CRIMINAL
CONDUCT**

NAME: FLAMER

Often NLPA is contacted by defense counsel or their clients after they have pled guilty, but prior to being sentenced. When this occurs, NLPA focuses on minimizing the defendant's sentence by preparing a sentencing memorandum that, among other issues, outlines any alternative sentencing arguments or requests for downward departures that may be appropriate. United States v Flamer was just such a case where NLPA's input at sentencing help provide significant results.

In United States v Flamer, NLPA was contacted by the Defendant's family after he had received his PSI, but prior to sentencing. The PSI outlined the Defendant's extensive criminal record, and based on the Defendant's several convictions, his Criminal History was determined to be Category V. Further, his offense level was determined to be 29. Based on these calculations, the PSI reflected that Mr. Flamer's guidelines range of imprisonment was 140 to 175 months.

Based on consultation with Mr. Flamer's counsel, letters from Mr. Flamer and his family, and a review of Mr. Flamer's PSI, NLPA prepared various arguments designed to minimize Mr. Flamer's sentence and sent them to Mr. Flamer's counsel. At sentencing, counsel utilized NLPA's research and made several arguments for a reduced sentence. Among other issues, counsel argued that although Mr. Flamer had an extensive criminal record, a Criminal History Category V over-represented the seriousness of his past criminal conduct. Therefore, counsel urged that a downward departure was appropriate.

Happily, the Court agreed with the arguments at sentencing and held that despite the fact Mr. Flamer's criminal record was lengthy and involved acts of violence, the "defendant's criminal history score overstates his actual criminal history in that most of the points assigned to the defendant arose when he was a juvenile and in some instances that multiple charges resulted in only one sanction." The Court then departed downward and sentenced Mr. Flamer to 121 months incarceration. The departure represented a reduction in the Defendant's sentence of 2 to 4 ½ years!!!!

Should you or your client find yourself in a similar situation, NLPA and its experienced research team stands ready to assist you with the most up to date research in the preparation of federal pleadings to protect your client's rights. We look forward to another victory!

NLPA, WE CARE, WE LISTEN, WE GET RESULTS!