

NATIONAL LEGAL PROFESSIONAL ASSOCIATES

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MEMORANDUM

TO: ALL INTERESTED COUNSEL

FROM: NATIONAL LEGAL PROFESSIONAL ASSOCIATES

RE: HOW TO OBTAIN A RE-SENTENCING WHEN PRIOR COUNSEL HAS FAILED TO RENDER EFFECTIVE ASSISTANCE OF COUNSEL AT THE SENTENCING HEARING.

NAME: MOODY

NLPA is often times contacted by defendants who feel that the sentence imposed by the Court has been based upon inaccurate information contained in the Pre-Sentence Investigation Report (PSI). This situation is further compounded when counsel for the defendant fails at sentencing to raise objections for the Court's consideration pursuant to the provisions of Rule 32 of the Federal Rules of Criminal Procedure concerning inaccurate or erroneous information contained in the PSI which otherwise may have a significant impact upon the defendant at sentencing. The recent case of U.S. v. Moody (97-CV-080PG), U.S.D.C. S.D.Miss., is the most recent NLPA victory in assisting a defendant in obtaining a re-sentencing when a defendant did not receive effective assistance of counsel during the sentencing hearing.

In the case of Mr. Moody, after having entered a plea of guilty to one count of conspiracy in violation of 21 U.S.C. §846 and one count of money laundering in violation of 18 U.S.C. §1956(a)(1)(B), Mr. Moody was sentenced to 252 and 240 month concurrent prison terms. After his sentencing, he contacted National Legal Professional Associates asking that NLPA assist him and his new counsel in pursuing post-conviction relief to secure a reduction in his sentence. Working in conjunction with Mr. Moody's new counsel, NLPA assisted in the preparation of a §2255 motion which argued that Mr. Moody's counsel was ineffective at sentencing in failing to recognize and object to a guideline calculation error contained in the PSI which resulted in the imposition of a prison term beyond what was authorized by the Federal Sentencing Guidelines.

Fortunately for Mr. Moody, as you can see from the attached Court Opinion, the District Judge agreed with the position taken by NLPA and Mr. Moody's counsel. The Court concluded that the Guideline calculations as contained in the PSI incorrect and resulted in a prison sentence which was 42 months longer than the maximum sentence allowed by the guidelines.

Accordingly, the Court concluded that since counsel failed to object to this erroneous information contained in the PSI. Moody had not received effective assistance of counsel during the course of his sentencing and ordered Mr. Moody's sentence set aside. The Court then ordered that Mr. Moody be given a new sentencing hearing at which time the Court could properly evaluate all of the applicable legal arguments as to why Mr. Moody's sentence should be considerably reduced.

If you are representing a defendant who you believe was sentenced by the Court in reliance upon inaccurate information contained in the PSI and would like to have assistance in helping your client receive a reduction in his sentence, contact NLPA.

It has been shown time and time again, NLPA's expertise in the field of criminal law produces successful results for defense counsel and their clients. If you would like the expertise which our research staff brings to a defense team, NLPA can work with you to ensure your client receives the best defense possible.

NLPA WE CARE, WE LISTEN, WE GET RESULTS!

DISCLAIMER: This informational memorandum 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.

Nothing presented herein is intended to be legal advice. Such advice can only be provided by a local licensed attorney based on a full discussion of a client's individual facts and circumstances. The contents of this document are provided solely for general informational purposes. Always seek the advice of a licensed attorney for specific legal problems.