

NATIONAL LEGAL PROFESSIONAL ASSOCIATES

*Margaret A. Robinson Advocacy Center
11331 Grooms Road, Suite 1000
Cincinnati, OH 45242*

Phone: 513-247-0082 • Fax (513) 247-9580

Web site: www.NLPA.com • E-mail: contactus@nlpacincinnati.com

MEMORANDUM

TO: TO INTERESTED COUNSEL AND THEIR CLIENTS

FROM: NATIONAL LEGAL PROFESSIONAL ASSOCIATES

**RE: TECHNIQUES FOR REDUCING A CLIENT'S SENTENCING GUIDELINES
IN A DRUG CONSPIRACY - ANOTHER NLPA VICTORY!**

NAME: PIMENTA

Oftentimes NLPA is contacted by counsel who has a client facing sentencing who desires to reduce the projected sentencing guideline range that the defendant is facing at his upcoming sentencing. The case of U.S. v. Pimenta (93-40-01, D.C. Vermont) is an excellent illustration of the assistance NLPA can provide in this regard.

Pursuant to plea negotiations, Mr. Pimenta entered a plea of guilty to one count of conspiracy to distribute cocaine and possess with intent to distribute in violation of Title 21 United States Code §841(a)(1) and §846. Upon receiving the Pre-Sentence Investigation Report (PSI) prepared by the United States Probation Office, counsel learned for the first time that the government was attempting to use erroneous information in establishing his client's relevant conduct level and his sentencing guidelines. In the PSI, the government had Mr. Pimenta's sentencing guidelines based upon what the government called "reliable evidence" that Mr. Pimenta was involved with at least five but less than 15 kilograms of cocaine. This erroneous statement was based upon amounts of cocaine which the Defendant had allegedly distributed some years prior to the offense for which the Defendant was indicted. The allegations were also based upon drug ledgers which the government claimed established the Defendant's responsibility for this amount of drugs.

Working with the Defendant's counsel, NLPA prepared a motion pursuant to Rule 32 of the Federal Rules of Criminal Procedure which was then filed by counsel prior to the Defendant's sentencing. This motion set forth to the Court that even if the Defendant had sold drugs previously they were not part of the same "course of conduct" to which the Defendant had entered a plea of guilty. The motion also argued that the estimated amount of cocaine which the Defendant had allegedly sold was not accurate. Further, the motion pointed out to the court that the government could not clearly meet its burden of proof as to the quantity of drugs which the government had claimed Mr. Pimenta should be held responsible for in determining his sentence.

At sentencing, the Honorable Franklin S. Billings, Jr. ruled in favor of the Defendant and found that fewer than five kilograms had been distributed by Mr. Pimenta for sentencing purposes. This resulted in a reduction of Mr. Pimenta's sentencing guideline range by 30 months. A copy of counsel's letter to NLPA confirming this matter is appended hereto.

If you have a client who is facing sentencing and you believe that the government is attempting to use improper drug amounts in determining the defendant's relevant conduct and sentencing guideline range, we can help. If you would like to have assistance in getting this matter clarified prior to sentencing in order to help your client receive a lower term of confinement, contact NLPA.

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

**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.**