

# 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](http://www.NLPA.com) • E-mail: [contactus@nlpa.com](mailto:contactus@nlpa.com)

## MEMORANDUM

**TO: ALL INTERESTED DEFENSE COUNSEL**

**FROM: NATIONAL LEGAL PROFESSIONAL ASSOCIATES**

**NAME: BARROS**

**RE: DOWNWARD DEPARTURES – YOU CAN'T GET WHAT YOU DON'T ASK FOR. ANOTHER NLPA SUCCESS STORY !!**

---

It has been NLPA's philosophy that a strong effort by counsel of record at the sentencing stage is critical to the defense. Defendants are often discouraged when the Pre-Sentence Investigation Report (PSI) is prepared, calculating the defendant's guideline range of imprisonment at a high level. However, it has been consistently held that sentencing courts still retain vast discretion in determining the ultimate sentence to impose. Therefore, even when the calculations in the PSI are technically correct, in many situations arguments can be made for a sentence below the guideline range presented in the PSI.

This is precisely the situation in Mr. Barros' case. Mr. Barros came to NLPA after being charged in the U.S. District Court for Massachusetts with being a felon in possession of a firearm, in violation of 18 USC 922(g)(1) (Case no. 00-cr-10439-1). At his request, NLPA joined Mr. Barros' defense team and worked closely with defense counsel, Kevin Reddington, at the pretrial, plea, and sentencing stages. Ultimately Mr. Barros decided it was best to plead guilty and then try to keep his sentence as low as possible.

Upon initial assessment of Mr. Barros' case, it appeared as if Mr. Barros' guideline range could be calculated as low as 41 to 51 months or as high as 92 to 115 months. Accordingly, defense counsel requested that NLPA provide counsel with research and case law supporting a downward departure at sentencing. Accordingly, NLPA provided counsel with arguments that a downward departure was necessary based on the following:

- 1) The Defendant's Post-Offense Rehabilitation, Extraordinary Acceptance of Responsibility and Remorse;
- 2) The Defendant's Had Aided in The Facilitation of The Administration of Justice;
- 3) The Defendant's Criminal History Calculation Overstated the seriousness of his prior criminal conduct and the likelihood that he will commit additional crimes; and

- 4) The totality of the circumstances in this case required a downward departure.

Fortunately, the sentencing court agreed with many of the arguments researched by NLPA and argued by counsel at sentencing, although NLPA could not have expected such dramatic results. At sentencing, instead of receiving 92 to 115 months imprisonment, *Mr. Barros was sentenced to a period of one year and one day to be served in a halfway house!*

Although dramatic results such as what Mr. Barros received cannot be expected in every case, NLPA's philosophy is that "you cannot get what you don't ask for... so why not ask?"

Although dramatic results such as what Mr. Barros received cannot be expected in every case, NLPA's philosophy is that "you cannot get what you don't ask for... so why not ask?" If you or your client is facing sentencing in federal court and would like NLPA's experienced team of attorneys on your side, please contact NLPA.

**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.