

# NATIONAL LEGAL PROFESSIONAL ASSOCIATES

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## MEMORANDUM

**TO: ALL INTERESTED DEFENSE COUNSEL AND THEIR CLIENTS**  
**FROM: NATIONAL LEGAL PROFESSIONAL ASSOCIATES**  
**NAME: BROWN**  
**RE: WITHDRAWING A PLEA – ANOTHER NLPA VICTORY!**

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Often, NLPA is contacted by counsel who represent defendants wishing to withdraw their pleas of guilty because they were coerced into doing so by threats of an unduly long and harsh sentence. The case of People v. Brown, (Crim. No. 5610 Fayette County Circuit Court, Tennessee) demonstrates how NLPA can assist counsel in the preparation of post-conviction motions regarding the withdrawal of a guilty plea and the reinstatement of a client's right to go to trial. Mr. Brown entered a plea of guilty when he was threatened by his counsel that he would receive a sentence of 40 years if he did not plead guilty. During pre-trial proceedings, the State agreed that Mr. Brown could only be sentenced to a 20 year term of incarceration if found guilty. Mr. Brown had been charged with possession with intent to distribute .5 grams or more of cocaine in violation of Tennessee law and was determined to be a Multiple Range II Offender. Counsel then approached Mr. Brown with a plea offer that would result in only 20 years incarceration, seemingly a beneficial offer. At no point did counsel inform Mr. Brown that the sentence offered in the plea was the maximum sentence that Mr. Brown would be facing, and that a 40 year sentence would not be issued, even if found guilty after a trial. However, after sentencing, Mr. Brown discovered that, in fact, counsel had been less than forthright regarding the potential sentence faced in this matter. Mr. Brown then contacted NLPA, as well as Robert Ratliff, Esq., in an effort to withdraw his guilty plea.

Mr. Brown then successfully asked the trial court judge to permit him to withdraw his plea in a post-conviction motion raised pursuant to Tennessee Code § 40-30-102, *et seq.* Mr. Brown's argument was based upon the fact that his plea was entered unknowingly, as he was coerced into pleading guilty based upon a false promise regarding the potential sentence faced by Mr. Brown.

It was argued that the plea entered by Mr. Brown was unknowing, involuntary, and unintelligent, in violation of the Fifth Amendment to the United States Constitution. Mr. Brown was unaware of the actual consequences of pleading guilty, as well as viable options to pleading guilty. In the motion prepared by NLPA, it was also argued that counsel provided ineffective assistance to Mr. Brown, in violation of the Sixth Amendment to the United States Constitution. It is counsel's duty to provide "objectively reasonable advice" to clients during plea negotiations. The trial court agreed with the arguments presented by NLPA and Mr. Ratliff and local counsel and ordered Mr. Brown's plea withdrawn and his right to proceed to trial reinstated.

The bottom line is that entering a guilty plea does not foreclose review of a criminal conviction. Pleas are often entered based upon inaccurate or incomplete information possessed by the defendant, rendering such pleas unconstitutional. It is counsel's duty to ensure that such mistakes do not occur. However, attorneys are fallible, and constant vigilance must be maintained even when entering a guilty plea. Should you find yourself in a similar situation to Mr. Brown, NLPA stands ready to assist you in the research and preparation of any motions necessary to assist you in the vigorous defense of your client.

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

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