

# 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@nlpacincinnati.com](mailto:contactus@nlpacincinnati.com)

## MEMORANDUM

**TO: ALL INTERESTED DEFENSE COUNSEL AND THEIR CLIENTS**

**FROM: NATIONAL LEGAL PROFESSIONAL ASSOCIATES**

**NAME: HAHNE**

**RE: COERCION AND DURESS AS SENTENCING ISSUES**

---

The United States Federal Sentencing Guidelines provide various opportunities for sentence departures given the right circumstances and a good, working knowledge of the Guidelines. NLPA has had a hands-on, working knowledge of these Guidelines since their inception in 1987. It is at sentencing that most counsel find NLPA's expertise, research, and writing assistance to be most beneficial.

In the case of *United States v. Hahne*, (U.S. Dist.Ct. NJ) such expertise assisted counsel in obtaining a substantial downward departure for a defendant. New Jersey counsel Leslie Stolbof Sinemus has been practicing criminal defense for many years and is well-established in the New Jersey criminal defense bar. NLPA was contacted though to aid the defense team in approaching the sentencing of Mr. Hahne who was charged and pleaded guilty to bank robbery. NLPA was pleased to partner with Attorney Sinemus in this endeavor.

Based on Mr. Hahne's Pre-Sentence Investigation Report, the Probation Department recommended that Mr. Hahne's sentencing range be 77-96 months, a level 24. This calculation was due to a base level for bank robbery, an enhancement because the bank was a federally insured institution, and a further enhancement because a firearm was possessed during the robbery. Although the defendant was to receive a three point reduction for acceptance of responsibility, he was still facing over six years due to his prior criminal history.

With NLPA's assistance, two arguments were fashioned for the court. The first was for the court to concur as to the defendant's base offense level. Though the Government and the defendant had contractually agreed on certain factors in the plea agreement, it was vital that the court also concur in order to establish the base sentence calculation. The second addressed a potential, yet very much applicable, departure basis in this case.

It was factually and uncontrovertedly established that Mr. Hahne had engaged in the bank robbery in order to satisfy gambling debts of another individual. Mr. Hahne was responsible for the

collection of this debt and the debtor had disappeared. The debt was owed to certain individuals who have methods and tactics for repayment which could place debtors in physical harm. Consequently, it was important to Mr. Hahne that this debt be repaid in full, and as quickly as possible, as the creditor (a well-known crime family) had threatened his life, the life of his one year old child, and the life of the child's mother.

The court was provided with information concerning the tactics used against the defendant and his family in attempting to collect this debt and the overwhelming issues of coercion and duress that caused the Defendant to commit the crime. These tactics included repeated phone calls at all times of the day and night, as well as personal visits. The defendant's fiancé finally left the family home to live elsewhere out of fear for her own safety. Sincerely believing that he had no other means of satisfying this debt, Mr. Hahne decided to rob a bank. As supported by a psychological report, there was no question that the defendant was in fear of death or serious bodily injury for himself and his family.

With this information in hand and with a full sentencing memorandum researched and prepared by NLPA, Attorney Sinemus argued to the court that it should downwardly depart from the sentencing guidelines due to the coercion or duress policy provisions of U.S.S.G. §5K2.12. Unlike the endorsed departure under § 5K2.13 for diminished capacity, 5K2.12 does not limit itself to nonviolent crimes. Consequently, the ability of the court to recognize the extreme coercion the defendant was under as a mitigating role in establishing a sentence was not only endorsed by the Guidelines but clearly applicable in this case.

The sentencing judge agreed with the arguments of counsel and departed an additional three levels for duress and coercion, establishing Mr. Hahne's sentence at 64 months. The departure represented a **full one-third off** of Mr. Hahne's potential sentence as recommended by the Probation Department.

The Federal Guidelines provide a fair number of potential bases for downward departure. However, unless counsel is aware of how to present such mitigating issues, possible departures can be easily lost. If you have a client facing sentencing in Federal court and would like NLPA's experienced staff of attorneys on your team, please contact us.

***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.**