

NATIONAL LEGAL PROFESSIONAL ASSOCIATES

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MEMORANDUM

TO: ALL INTERESTED DEFENSE COUNSEL AND THEIR CLIENTS
FROM: NATIONAL LEGAL PROFESSIONAL ASSOCIATES
DATE: MAY 10, 2002
NAME: HYMES
RE: OBJECTIONS TO THE PRE-SENTENCE INVESTIGATION REPORT AT SENTENCING

Over the years, NLPA is often contacted to assist counsel after a defendant has been convicted and is awaiting sentencing. During this time, the Probation Office generally prepares a Presentence Investigation Report (PSI) that details the defendant's relevant conduct and provides a calculation of a defendant's potential sentence. This report is critical as it is relied heavily upon by the Judge in deciding what sentence to impose upon the defendant. Typically, in preparing this report, the Probation Officer relies on information provided by the U.S. Attorney's Office. Therefore, the calculations are based almost exclusively on conduct alleged by the government. We have found that it is at this stage that NLPA's research and writing assistance is most beneficial. The case of U.S. v Hymes, 5:00-CR- 000251-015 (USDC, ND NY), is another great example of how NLPA's assistance can pay major dividends.

Mr. Hymes' family came to NLPA after he was convicted at trial under 21 USC §§ 841 and 846 for conspiracy to possess with intent to distribute more than 50 grams of cocaine base. When Mr. Hymes received his PSI he was shocked to see that the government was attempting to hold him accountable under § 1B1.3 for in excess of 1.5 kilograms of cocaine base -- an amount that receives the highest sentence under the Guidelines. Additionally, the government had alleged that Mr. Hymes lied at the hearing on his motion to suppress. Therefore, the PSI included a 2-level enhancement under § 3C1.1. The result in the PSI was a total offense level of 40 and a guideline range of imprisonment of 30 years to LIFE!

NLPA provided to Mr. Hymes' attorney research and arguments combating the amount of cocaine base attributed to him for sentencing and the § 3C1.1 obstruction of justice enhancement. Counsel made several arguments at sentencing, including the issues that NLPA provided its research assistance. The end result was that Mr. Hymes was held accountable for 50 grams of cocaine base

(instead of 1.5 kilograms) and the § 3C1.1 obstruction of justice enhancement removed. The court then sentenced Mr. Hymes to 135 months imprisonment instead of 30 years to life -- a reduction of nearly 20 years!

Dramatic results such as what Mr. Hymes received cannot be expected in every case. However, the combination of a diligent attorney and NLPA's research and writing assistance is one of the best ways to minimize a defendant's exposure at sentencing. If you or your client are 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!

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TO LICENSED COUNSEL IN ALL AREAS THAT INVOLVE THE PRACTICE OF LAW.**