

NATIONAL LEGAL PROFESSIONAL ASSOCIATES

Case Analysis and Research Division
Margaret A. Robinson Advocacy Center
11331 Grooms Road, Suite 1000
Cincinnati, OH 45242
Fax (513) 247-9580
Telephone (513) 247-0082

MEMORANDUM

TO: ALL INTERESTED COUNSEL

FROM: NATIONAL LEGAL PROFESSIONAL ASSOCIATES

RE: DOWNWARD DEPARTURES AT SENTENCING

NAME: RODRIGUEZ - ANOTHER NLPA VICTORY

Many of our clients have had minor brushes with the criminal justice system in their youth. A result of this prior history is that their criminal history scores as calculated for their current offense, oftentimes add up to a much higher score than is warranted. One of the best ways to reduce the influence of these prior convictions is to seek a downward departure based upon the argument that the current criminal history category over represents the prior criminal conduct. The case of United States v. Rodriguez, Case No. 99-CR-00009-03, from the Eastern District of Pennsylvania is a perfect demonstration that you can in fact receive significant departures if your argument and factual presentation is done correctly.

In this case, NLPA, working with Mr. Rodriguez's attorney, Robert Ratliff of Cincinnati, Ohio, argued that Mr. Rodriguez should receive a departure based upon the fact that his prior criminal history involved only minor crimes committed years earlier. Mr. Rodriguez had pled guilty to participating in a heroin conspiracy. Mr. Rodriguez faced a criminal history category determined to be IV and his base offense level was 34, resulting in a potential sentence of 210-262 months. NLPA prepared a complete sentencing memorandum and argued for downward departure under the recent United States Supreme Court case of Koon v. United States, 116 S.Ct. 2035 (1996) and United States Sentencing Guidelines §5K2.0. NLPA argued that Mr. Rodriguez' prior conviction were not substantial in nature and that criminal history category of IV severely overstated his prior conduct. After reviewing the argument and evidence presented by NLPA, the Court found that Mr. Rodriguez' criminal history category was in excessive. The Court granted Mr. Rodriguez a downward departures based upon NLPA's arguments to a criminal category of III. This departure resulted in a reduction of 22 months in Mr. Rodriguez's sentencing range.

If you or your client are facing sentencing, or if you are unsure what potential downward departures are available to your client, NLPA can help. With our extensive knowledge of the federal sentencing guidelines and access to the most up to date trends and opinions in federal sentencing law, NLPA can assure you and you client of receiving the lowest possible sentence.