

NATIONAL LEGAL PROFESSIONAL ASSOCIATES

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MEMORANDUM

TO: ALL INTERESTED DEFENSE COUNSEL AND THEIR CLIENTS

FROM: NATIONAL LEGAL PROFESSIONAL ASSOCIATES

RE: CORRECTING CRIMINAL HISTORY SCORES AT SENTENCING - ANOTHER NLPA VICTORY

NAME: SANFORD

For nearly 20 years, National Legal Professional Associates (NLPA) has worked diligently with defense counsel and their clients in providing legal research and drafting assistance in preparation for sentencing. One important area that NLPA always reviews is the probation officer's calculation of a defendant's criminal history category. As many of you already know, many relatively minor offenses are counted under § 4A1.1. In fact almost any offense can be counted as long as the sentence imposed was at least 12 months probation. However, not all offenses are countable and sometimes the probation officer makes a mistake. The case of USA v Glenn Sanford, is just such a situation.

Mr. Sanford came to NLPA asking to assist his attorney in drafting potential objections and arguments to the presentence investigation report (PSI). NLPA worked closely with Mr. Sanford's attorney, providing him with research and writing assistance. Due to the statutory minimum sentence, it appeared from the initial review of the PSI that Mr. Sanford was subject to a sentence of at least 120 months imprisonment. However, upon closer review, it appeared that Mr. Sanford's criminal history score may have been incorrect. Probation placed Mr. Sanford in a Criminal History Category II based in part on two prior convictions for worthless checks. However, according to U.S.S.G. § 4A1.2(c)(1), insufficient funds check offenses are only counted if the sentence was a term of probation of at least one year or imprisonment of at least 30 days. Mr. Sanford did not receive a sentence of imprisonment or probation for either offense. Therefore, NLPA prepared research for counsel arguing that the offenses should not have been counted and that Mr. Sanford's Criminal History Category should have been I; not II.

This was significant because once the criminal history score was corrected, Mr. Sanford appeared to satisfy U.S.S.G. § 5C1.2, the “Safety Valve.” Most important, he would not be subject to the otherwise applicable minimum 120 month sentence listed in the PSI. Therefore, NLPA prepared an argument for counsel that Mr. Sanford qualified for safety valve relief and a sentence below the minimum mandatory 120 months. The sentencing court agreed, and sentenced Mr. Sanford to 54 months incarceration, a savings of 66 months!

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!

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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.