

**ADMINISTRATIVE OFFICE OF THE U.S. COURTS
OFFICE OF DEFENDER SERVICES TRAINING BRANCH**

**“SENTENCING ADVOCACY WORKSHOP:
THINKING OUTSIDE THE GUIDELINE BOX”**

**NEW ORLEANS
HOTEL MONTELEONE
MARCH 18-20, 2010
DRAFT AGENDA
12/15/09**

Thursday, March 18

- 8:00 a.m. Registration-Continental Breakfast**
- 9:00 a.m. Welcoming Remarks**
- 9:15 a.m. Introduction to Workshop**
- 9:20 a.m. Putting the Guidelines in a Half-Nelson: Fighting For and Winning Lower Sentences**
This session will focus on using 18 U.S.C. §3553(a) and recent sentencing rulings from the Supreme Court and lower courts to advocate for and achieve below guidelines sentences.
- 10:30 a.m. Break**
- 10:45 a.m. Judging at Sentencing**
A panel of federal judges will give their perspective on how federal criminal defense lawyers can be more persuasive in their sentencing advocacy now that Booker and Gall have allowed them the discretion to consider more factors at sentencing.
- 12:00 p.m. Lunch - On Your Own**
- 1:00 p.m. Conceptualizing Mitigation**
This session will provide an integrated framework for understanding what mitigating evidence is, and how to investigate and present it. The session will teach lawyers how to "think large" about mitigating circumstances: describing the multiple dimensions and interrelatedness of what may sometimes appear to be different kinds of mitigating evidence; explaining how to investigate and develop testimony from family and lay witnesses, institutional records, case-related institutional witnesses, and defense social history and mental health experts to most persuasively present interrelated mitigation themes. It will use poverty as a stepping-off point to illustrate the personal, social, psychological, and neuropsychological dimensions of mitigating evidence and explore the differences between the type of superficial investigation and presentation of these factors that are frequently seen at trial and the type of thorough investigation and

presentation the Constitution requires and our clients deserve.

2:00 p.m. Interviewing for Mitigation

How do you uncover the mitigating facts in your client's case? This session will hone your interviewing for mitigation skills. It will demonstrate both the manner of effective interviewing and types of effective questions to be asked.

2:30 p.m. Brainstorming the Facts of the Case

This session will explain the elements of brainstorming and use the facts of the mock case to demonstrate techniques for discussing and understanding the facts of a case in a manner which will maximize the potential of developing those facts into a persuasive sentencing theory.

3:15 p.m. Break

3:25 p.m. Small Group Sessions –Brainstorm Facts of Own Case

Participants will break into small groups led by a facilitator and brainstorm the facts of their own cases.

5:00 p.m. Developing Theories and Themes

This session will define a theory and theme and use the facts brainstormed in the previous session to develop a persuasive sentencing theory and theme..

6:00 p.m. Adjourn for the Day

Friday, March 19

8:00 a.m. Registration-Continental Breakfast

8:30 a.m. Small Group Sessions - Theories and Themes

Participants will break into small groups led by a facilitator and apply theories and themes to the facts of their own cases.

10:00 a.m. Break

10:15 a.m. Storytelling at Sentencing

This session will discuss storytelling techniques and use the facts of the mock case to explain their importance to advancing a persuasive sentencing theory

11:15 a.m. Persuasive Writing

This session will provide persuasive writing techniques to advance the sentencing theory using the facts of the mock case

12:30 p.m. Lunch - On Your Own

1:30 p.m. Small Group Sessions - Persuasive Writing

Participants will break into small groups led by a facilitator and apply storytelling and persuasive writing techniques to the facts of their own cases. Each participant will write the first two to three paragraphs of their sentencing memorandum or downward departure motion in a persuasive fact-based manner. Participants will receive feedback on the writing and rewrite it focusing on the feedback.

4:00 p.m. Break

4:15 p.m. Working With Probation

The probation officer plays a critical role at sentencing which often influences the judge's opinion. This session will discuss how to work with the probation officer in order to persuade them to adopt (or not oppose) your theory of sentencing.

5:15 p.m. Adjourn

6:00 p.m. Cocktail Reception

Join us for light fare and the good company of your fellow workshop participants. Informal attire. Cash Bar.

Saturday, March 20

8:00 a.m. Registration - Continental Breakfast

8:30 a.m. Small Group Sessions - Sam Bradshaw Sentencing Memo
Participants will break into small groups and discuss the Sam Bradshaw sentencing memo which they prepared.

10:00 a.m. Break

10:15 a.m. Persuasive Sentencing Hearing
This session will discuss how to persuasively present mitigation evidence at the sentencing hearing. It will include the power of images and the use of sentencing videos and pictures, and will examine factors to consider in making decisions about what to present and how to conduct the hearing.

11:15 a.m. Practical Tips if Your Client Faces Incarceration in a Federal Prison
This session will provide practical tips if your client faces federal imprisonment. It will include factors to consider for your client to obtain a federal sentence at the least restrictive possible facility and receive the earliest feasible release date.

12:15 p.m. Meet Sam Bradshaw - A Client's Perspective on Sentencing Advocacy
"Sam Bradshaw", Former CJA Client

12:45 p.m. Closing Remarks
Andrea Taylor, Deputy Training Branch Chief, Office of Defender Services,
Administrative Office of the U.S. Courts, Washington, D.C.

CLE Accreditation