

Below is the agenda for the
2009 SENTENCING ADVOCACY WORKSHOP

To view written materials produced in conjunction with a particular session at the seminar, click on the [blue link](#) to that agenda item.

Please note that the absence of a link for a specific session indicates that the presenter did not provide any written materials for that session.

Note for Mac Users: The links in this agenda will only function on a PC. If you do not have access to a PC and would like to view the materials in conjunction with a particular session, please send a request to Lisa_Porcari@ao.uscourts.gov. Select materials from this program are also accessible through the Topics Menu on the left side of the Training Materials & Other Publications Page on www.fd.org.

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

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

**SANTA FE
MARCH 26-28, 2009
FINAL AGENDA**

Thursday, March 26

8:00 a.m. Registration-Continental Breakfast

9:00 a.m. Welcoming Remarks - Mesa A/B
Ken Gleria, Panel Attorney Representative, Albuquerque, NM
Stephen McCue, Federal Public Defender, Albuquerque, NM

9:15 a.m. Introduction to Workshop - Mesa A/B
Andrea Taylor, Deputy Training Branch Chief, Office of Defender Services,
Administrative Office of the U.S. Courts, Washington, D.C.

9:20 a.m. Putting the Guidelines in a Half- Nelson: Fighting For and Winning Lower Sentences - Mesa A/B
Alison Siegler, Assistant Clinical Professor of Law, University of Chicago Law School, Chicago, IL

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. Persuasive Sentencing Hearing - Mesa A/B
Doug Passon, Assistant Federal Public Defender, Phoenix, AZ

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.

12:00 p.m. Lunch - On Your Own

- 1:15 p.m.** **Development of Effective Mitigation Evidence - Mesa A/B**
Melissa Kupferberg, Investigator, Office of the Federal Public Defender,
Tampa, FL
Randall Schnack, CJA Supervising Attorney, U.S. District Court,
Los Angeles, CA

This session will discuss how an attorney, investigator, or mitigation specialist develops effective mitigation evidence in preparation for sentencing. It will also offer practical advice on how to obtain a mitigation specialist for use in your case

- 2:15 p.m.** **Brainstorming the Facts of the Case - Mesa A/B**
Joseph Ross, Assistant Federal Public Defender, Raleigh, NC

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.

- 3:00 p.m.** **Break**

3:15 p.m. Small Group Sessions –Brainstorm Facts of Own Case

Manny Atwal, Assistant Federal Public Defender, Minneapolis, MN
Michelle Engert, Assistant Federal Public Defender, Baltimore, MD
Lori Green, Attorney-Advisor, Office of Defender Services Training Branch,
Administrative office of the U.S. Courts, Washington, D.C.
Denise Hines, Paralegal, Office of the Federal Public Defender, Reno, NV
Janet Hinton, Visiting Paralegal, Office of Defender Services, Administrative
Office of the U.S. Courts, Washington, D.C.
Tina Hunt, Assistant Federal Defender, Spokane, WA
Melissa Kupferberg, Investigator, Office of the Federal Public Defender,
Tampa, FL
Lee Lawless, Federal Public Defender, St. Louis, MO
Ira Mickenberg, Public Defender Trainer and Consultant, Saratoga Springs, NY
John Rhodes, Assistant Federal Defender, Missoula, MT
Joseph Ross, Assistant Federal Public Defender, Raleigh, NC
Molly Roth, Visiting Assistant Federal Public Defender, U.S.
Sentencing Commission, Washington, DC
Fredilyn Sison, Assistant Federal Defender, Asheville, NC
Carlos Williams, Executive Director, Southern Federal Defender Program,
Mobile, AL

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

Mesa A - Group A
Mesa B - Group B
Mesa C - Group C
Ortiz 1 - Group D
Ortiz 2 - Group E
Ortiz 3 - Group F
Cedar - Group G
Fiesta - Group H

5:00 p.m. Developing Theories and Themes - Mesa A/B

Ira Mickenberg, Public Defender Trainer and Consultant, Saratoga Springs, NY

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..

5:45 p.m. Adjourn for the Day

Friday, March 27

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.

Manny Atwal, Assistant Federal Public Defender, Minneapolis, MN
Michelle Engert, Assistant Federal Public Defender, Baltimore, MD
Lori Green, Attorney-Advisor, Office of Defender Services Training Branch,
Administrative Office of the U.S. Courts, Washington, D.C.
Denise Hines, Paralegal, Office of the Federal Public Defender, Reno, NV
Janet Hinton, Visiting Paralegal, Office of Defender Services, Administrative
Office of the U.S. Courts, Washington, D.C.
Tina Hunt, Assistant Federal Defender, Spokane, WA
Melissa Kupferberg, Investigator, Office of the Federal Public Defender,
Tampa, FL
Lee Lawless, Federal Public Defender, St. Louis, MO
Ira Mickenberg, Public Defender Trainer and Consultant, Saratoga Springs, NY
John Rhodes, Assistant Federal Defender, Missoula, MT
Joseph Ross, Assistant Federal Public Defender, Raleigh, NC
Molly Roth, Visiting Assistant Federal Public Defender,
U.S. Sentencing Commission, Washington, DC
Fredilyn Sison, Assistant Federal Defender, Asheville, NC
Carlos Williams, Executive Director, Southern Federal Defender Program,
Mobile, AL

Mesa A - Group A
Mesa B - Group B
Mesa C - Group C
Ortiz 1 - Group D
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Cedar - Group G
Fiesta - Group H

10:00 a.m. Break

10:15 a.m. Storytelling at Sentencing - Mesa A/B

Bert Nieslanik, Alternate Defense Counsel, Grand Junction, CO

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

11:00 a.m. **Persuasive Writing - Mesa A/B**

Ira Mickenberg, Public Defender Trainer and Consultant, Saratoga Springs, NY

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

12:00 p.m. **Lunch - On Your Own**

1:15 p.m. **Small Group Sessions - Persuasive Writing**

- Manny Atwal, Assistant Federal Public Defender, Minneapolis, MN
- Michelle Engert, Assistant Federal Public Defender, Baltimore, MD
- Lori Green, Attorney-Advisor, Office of Defender Services Training Branch, Administrative Office of the U.S. Courts, Washington, D.C.
- Denise Hines, Paralegal, Office of the Federal Public Defender, Reno, NV
- Janet Hinton, Visiting Paralegal, Office of Defender Services, Administrative Office of the U.S. Courts, Washington, D.C.
- Tina Hunt, Assistant Federal Defender, Spokane, WA
- Melissa Kupferberg, Investigator, Office of the Federal Public Defender, Tampa, FL
- Lee Lawless, Federal Public Defender, St. Louis, MO
- Ira Mickenberg, Public Defender Trainer and Consultant, Saratoga Springs, NY
- John Rhodes, Assistant Federal Defender, Missoula, MT
- Joseph Ross, Assistant Federal Public Defender, Raleigh, NC
- Molly Roth, Visiting Assistant Federal Public Defender, U.S. Sentencing Commission, Washington, DC
- Fredilyn Sison, Assistant Federal Defender, Asheville, NC
- Carlos Williams, Executive Director, Southern Federal Defender Program, Mobile, AL

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.

- Mesa A - Group A**
- Mesa B - Group B**
- Mesa C - Group C**
- Ortiz 1 - Group D**
- Ortiz 2 - Group E**
- Ortiz 3 - Group F**
- Cedar - Group G**
- Fiesta - Group H**

3:30 p.m. Break

3:45 p.m. Judging at Sentencing - Mesa A/B

Moderator, Stephen McCue, Federal Public Defender, Albuquerque, NM
Honorable Deborah A. Batts, New York, NY
Honorable Michael Reagan, East St. Louis, IL
Honorable Martha Vazquez, Santa Fe, NM (invited)

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, Gall, Kimbrough and Nelson have allowed them the discretion to consider more factors at sentencing.

5:00 p.m. Cocktail Reception - Chamesa Courtyard

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

Saturday, March 28

8:00 a.m. Registration - Continental Breakfast

8:30 a.m. Small Group Sessions - Sam Bradshaw Sentencing Memo

Manny Atwal, Assistant Federal Public Defender, Minneapolis, MN (invited)

Michelle Engert, Assistant Federal Public Defender, Baltimore, MD

Lori Green, Attorney-Advisor, Office of Defender Services Training Branch,
Administrative Office of the U.S. Courts, Washington, D.C.

Denise Hines, Paralegal, Office of the Federal Public Defender, Reno, NV

Janet Hinton, Visiting Paralegal, Office of Defender Services, Administrative
Office of the U.S. Courts, Washington, D.C.

Tina Hunt, Assistant Federal Defender, Spokane, WA

Melissa Kupferberg, Investigator, Office of the Federal Public Defender,
Tampa, FL

Lee Lawless, Federal Public Defender, St. Louis, MO

Ira Mickenberg, Public Defender Trainer and Consultant, Saratoga Springs, NY

John Rhodes, Assistant Federal Defender, Missoula, MT

Joseph Ross, Assistant Federal Public Defender, Raleigh, NC

Molly Roth, Visiting Assistant Federal Public Defender,
U.S. Sentencing Commission, Washington, DC

Fredilyn Sison, Assistant Federal Defender, Asheville, NC

Carlos Williams, Executive Director, Southern Federal Defender Program,
Mobile, AL

Participants will break into small groups and discuss the Sam Bradshaw sentencing memo which they prepared.

Mesa A - Group A

Mesa B - Group B

Mesa C - Group C

Ortiz 1 - Group D

Ortiz 2 - Group E

Ortiz 3 - Group F

Cedar - Group G

Fiesta - Group H

10:00 a.m. Break

10:15 a.m. Working With Probation - Mesa A/B

Doug Burris, Chief U.S. Probation Officer, St. Louis, MO

Lee Lawless, Federal Public Defender, St. Louis, MO

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.

**11:00 a.m. Practical Tips if Your Client Faces Incarceration in a Federal Prison
Mesa A/B**

Manny Atwal, Assistant Federal Public Defender, Minneapolis, Minnesota

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.

11:45 a.m. Closing Remarks - Mesa A/B

Andrea Taylor, Deputy Training Branch Chief, Office of Defender Services,
Administrative Office of the U.S. Courts, Washington, D.C.

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