

EXECUTIVE COMMITTEE

A. Russell Smith <i>President</i> 904/355-5633	Brian L. Tannebaum <i>Treasurer</i> 305/374-7850
Richard Hersch <i>President Elect</i> 305/358-0570	Nellie L. King <i>Secretary</i> 561/833-1084
Paula Saunders <i>Vice President</i> 850/606-8535	Jeffrey M. Harris <i>Immediate Past President</i> 954/522-7000



Florida Association of Criminal Defense Lawyers

EXECUTIVE DIRECTOR

Kathryn L. Bradley, CAE
Post Office Box 1528
Tallahassee, Florida 32302
1419 N. Bronough Street
Tallahassee, Florida 32303
Phone: 850/385-5080
800/369-9503
Facsimile: 850/385-6715
E-mail: kbradley@facdl.org
Web Site: www.facdl.org

BOARD OF DIRECTORS**DIRECTORS AT LARGE**

James S. Benjamin
Lisa Call
H. Scott Fingerhut
Robert B. Fisher
Norman A. Green
Richard A. Greenberg
John M. Howe
Victoria McFadyen
James T. Miller
Kelly B. Sims
William R. Wade
Barry M. Wax

October 26, 2007

Ricardo H. Hinojosa
United States Sentencing Commission
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, DC 20002-8002

Re: Public Comment for 72 FR 28558 (May 21, 2007)

CHAPTER REPRESENTATIVES

Lisa Anderson
Kevin T. Beck
Mitchell J. Beers
Chris Brown
James H. Burke, Jr.
Derek Byrd
Michael P. Chauvin
Andrew Cotzin
Gregory J. Cummings
Bob Dillingier
Ronald L. Ecker, II
Robert H. Gray
Ross Haine, II
Steven G. Horneffer
Richard E. Hornsby
Ross Alan Keene
Michael Kessler
Jason W. Kreiss
Michael H. Lambert
Gregg Lerman
Martin W. Lester
Beatriz Llorente
Domenic Lucarelli
Michael P. Maddux
Carlos J. Martinez
Brett McIntosh
David Mengers
Andrew B. Metcalf
Sabrina D. Puglisi
Marianne S. Rantala
Dennis J. Rehak
Gary A. Roberts
Robert A. Sanders, Jr.
Leonard A. Sands
Hal G. Schuhmacher
Ian S. Seitel
M. Stephen Stanfield
Robert Wesley
Eugene Zenobi

Dear Chairman Hinojosa:

I am writing on behalf of the more than one thousand, six hundred (1600) active members of The Florida Association of Criminal Defense Lawyers. On their behalf, I would first like to commend the Commission for beginning to redress the severe disparity between the powder cocaine and crack cocaine sentencing guidelines. I would also like to urge the Commission to take further action to correct the injustices caused by this disparity in previous cases.

The disparity between crack and powder cocaine sentences has always been unsupported by research. That simple fact requires that the Commission mandate retroactive application of the Guidelines amendment. Individuals who have been wrongfully sentenced based upon this disparity should not be made to serve their current sentences while people sentenced after November 1, 2007 receive shorter sentences for the same offenses.

Retroactive application of the amendment would also help combat the racially discriminatory effect of the previous disparity in Guidelines sentencing between crack and powder cocaine, which has resulted in longer sentences for a much higher percentage of African American defendants.

In the past, the Commission has made amendments affecting LSD, marijuana, and Percocet retroactive. I encourage the Commission to take the same action in this case and make the amendment applicable to all crack cocaine defendants currently serving their sentences.

Sincerely,

A. Russell Smith
President

PAST PRESIDENTS

Jeffrey M. Harris
Michael J. Snure
Tom Kurrus
David D. Fussell
Denis M. deVlaming
Jerry Berry
David Rothman
Barry W. Beroset
Diane Buerger
J. Cheney Mason
Carey Haughwout
Thomas L. Powell
Carl H. Lida
Kirk N. Kirkconnell
Donnie Murrell
George E. Tragos
Larry G. Turner
Kirk W. Munroe
Barry A. Cohen

[59]