

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE:

CJA Invoicing for Research and Writing
Performed in Connection to Sentencing
Proceedings Held Before the Honorable
Gustavo A. Gelpí

Miscellaneous Case No. **12-MC-360(GAG)**

STANDING ORDER

TO ALL COUNSEL APPOINTED PURSUANT TO THE
CRIMINAL JUSTICE ACT, 18 U.S.C. §§ 3006A, *et seq.*

The U.S. Supreme Court and the U.S. Court of Appeals for the First Circuit's post-*Booker* decisions pertaining to the Court's ability to sentence a defendant pursuant to a variance have been in effect for some time now. By now, defense counsel know (or should know) very well the governing legal standard for sentencing within or outside the Sentencing Guidelines range, pursuant to a departure and/or variance, the discretion that a district court has in such process. In addition, for the past decade, the U.S. Sentencing Commission's excellent educational and training staff comes to this District every year to train and update CJA Panel attorneys as to all new federal sentencing developments (a full day event). More so, new CJA Panel attorneys must undergo an extensive Mentoring Program.

The bottom line is that CJA counsel should not have to include in their vouchers research pertaining to basic and general sentencing principles. Notwithstanding, the Court notes that, with concerning frequency, some CJA counsel constantly invoice for several hours worth of work for generic sentencing research (i.e., "research re: *Booker*, *Gall*, *Kimbrough*, etc.").¹ In addition, sentencing memoranda likewise contain "cut and paste" elaborate legal and historical discussions about *Booker* and its progeny.

The Court finds it unconscionable and unacceptable for CJA counsel to invoice for such research and writing. Counsel cannot seek compensation, in case after case, for researching what they already know (or should know), or for submitting in any motion a generic recital of basic sentencing principles (many times written by another fellow attorney).

¹ Reference is made to: United States v. Booker, 543 U.S. 220 (2005); Gall v. United States, 552 U.S. 38 (2007); and, Kimbrough v. United States, 552 U.S. 85 (2007).

WHEREFORE, as of **August 1, 2012**, CJA counsel shall not invoice for any research or writing performed in relation to basic sentencing principles. In each CJA statement, **counsel shall thus include a Certification** to this effect, as follows:

"I _____, hereby certify that I have not invoiced any research or writing performed in relation to basic sentencing principles."

Notwithstanding the above, the Court recognizes that, in many instances, counsel will still need to conduct sentencing research to support requests for a sentence under particular factual and/or legal scenarios. Invoicing for such work, in such instances, is not prohibited by this Order. However, to avoid any red flags, CJA counsel shall, whenever necessary, submit in the invoice a detailed explanation as to why any sentencing case research is necessary in a particular case.

Counsel are free to continue submitting a legal discussion of the current state of sentencing law in their memoranda. However, they shall not invoice for this fraction of their work.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 18th day of July, 2012.

s/ Gustavo A. Gelpí
Gustavo A. Gelpí
U.S. District Judge