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Federal Defender Newsletter

October 2008

CJA PANEL TRAINING

For the Sacramento panel, on October 15, 2008 at 5:30 p.m., John Balazs will be speaking on "Federal Civil Forfeiture." Sacramento panel training is held at 801 I Street, 4th floor, in the conference room. For the Fresno panel, there will be a sentencing training on Saturday, October 11, 2008 from 8:30 to 11:30 a.m. at the Federal Defender's Office, 2300 Tulare Street, Suite 330. Fresno panel attorneys are asked to bring their guidelines books to the training.

EASTERN DISTRICT CONFERENCE

The annual Eastern District Conference will be held November 14-16 at the Napa Valley Marriot Hotel and Spa. The deadline to make hotel reservations is October 14, 2008. In addition to the usual program, the district dinner this year will take place at the Clos Pegase Winery and will include a wine tasting, reception, and tour of the winery's art collection. If you are interested in attending and have not received an invitation, please contact Barbara Wilson, Judicial Asst. to Chief Judge Ishii in Fresno at 559-499-5660 or Marie Heltzel in Sacramento at 916-930-4115.

NEED FOR ADDITIONAL QUALIFIED CJA PANEL ATTORNEYS

As many of you know, due to the number of multi-defendant cases this fiscal year, there has been an increase in CJA panel appointments. Several current panel members are unable to accept new appointments. If you know of qualified, experienced defense counsel who might be interested in joining the federal CJA panel, please encourage them to apply and to begin attending monthly panel meetings.

TOPICS FOR FUTURE TRAINING SESSIONS

If you know of a good speaker for the Federal Defender's panel training program, if you would like the office to address a particular legal topic or practice area, or if you would like to be a speaker, please e-mail your suggestions to Melody Walcott at the Fresno office at melody_walcott@fd.org or Rachelle Barbour at the Sacramento office at rachelle_barbour@fd.org.

ADDRESS, PHONE OR EMAIL UPDATES

Please help us ensure that you receive the newsletter. If your address, phone number or email address has changed, or if you are having problems with the email version of the newsletter or attachments, please call Kurt Heiser at (916) 498-5700. Also, if you are receiving a hard copy of the newsletter but would prefer to receive the newsletter via email, contact Karen Sanders at the same number.

CLIENT CLOTHING & FOOTWEAR

The clothes closet is available to all AFDs and panel attorneys. It contains suits, shoes, socks, and shirts that clients can wear for court appearances. We also have some clothes that can be given away when necessary. Donations are greatly appreciated.

If you take borrowed clothes to the jail or U.S. Marshal's Office for your clients, please be put either your name/phone number or our name/phone number on the garment bag so that the facility will contact us for pickup of the items. Please note that you do not have to pay for the cleaning of any items used. The district court has graciously arranged for funds to pay the cleaning costs.

See Becky Darwazeh at the Sacramento Office or Nancy McGee at the Fresno office to pick up or drop off clothes.

NINTH CIRCUIT OPINIONS

United States v. Phan, No. 06-30469 (9th Cir. 9/23/08).

The Ninth Circuit (Gould joined by Ikuta and concurred with by Fisher) analyzes the

concept of loss and victimhood for identity theft cases. The court holds that individuals who had their identities used by the defendants, but who either did not suffer any financial harm, or whose financial loss was quickly reimbursed by their bank, do not count as victims under § 2B1.1. The opinion emphasizes that it is the government's burden to prove that each individual was a victim so as to count them to increase the guideline range. The government had provided insufficient evidence of tangible loss to each individual to have all of them counted.

United States v. Gomez-Leon, No. 05-50138 (9/24/08). The Ninth Circuit (Gibson and Graber) held in this 1326 appeal that the defendant's drug trafficking sentence was for less than 13 months. In this case, the defendant had a period of incarceration while on probation, and when he violated, he was given 365 days, which he argued, and the 9th agreed, included the amount he had already served. This brought him in under 13 months total for that offense. The Ninth Circuit also held that a California conviction for vehicular manslaughter without gross negligence was not a crime of violence.

United States v. Lazarenko, No. 06-10592 (9/26/08). The defendant was the former Prime Minister of Ukraine who was charged with 53 money laundering and fraud counts, was convicted of fourteen at trial, and here gets six of those fourteen counts reversed on appeal. The Ninth Circuit reversed those counts because the government failed to tie the wired funds to alleged fraud years before.