

Practice Standards

December, 2012

Section XII, Representation Standards for Sentence Review

2. HANDLING THE CASE:

A. If a client receives a qualifying sentence, trial counsel shall advise the client of the right to sentence review and give the client appropriate advice as to whether to pursue sentence review.

B. Counsel shall advise the client that, upon review and within the limits fixed by law, his or her sentence may be raised, lowered, or remain the same. Counsel shall discuss with the client whether in his or her professional judgment there is a reasonable chance of obtaining a more or less severe sentence. Counsel should explain the advantages and disadvantages of proceeding to sentence review. The decision whether to proceed with the sentence review must be the client's own.

C. If the client decides to proceed to sentence review, counsel shall assist him or her in filing a timely application for sentence review.

D. Counsel shall gather and review all information relevant to the sentencing determination including, pre-sentence reports, and any other records, documents, or exhibits relevant to the review proceedings.

E. Counsel shall conduct an appropriate investigation and interview relevant witnesses.

F. Counsel shall make an evaluation as to whether the client's sentence is more or less harsh than sentences for similar offenses and shall determine what factors distinguish the client's case, either positively or negatively.

G. Counsel shall appear with the client at his or her sentence review hearing and present the witnesses, exhibits, and arguments that, in his or her professional judgment, are most likely to result in a sentence reduction.