

**NEGOTIATIONS IN
FEDERAL CRIMINAL CASES
ETHICS FOR THE DEFENSE LAWYER**

Thomas D. Bever, Esq., Chilivis Cochran Larkins & Bever, LLP

Emily C. Ward, Esq., Chilivis Cochran Larkins & Bever, LLP

**CJA District Seminar
Savannah, Georgia
October 2, 2019**



BACKGROUND

- Chances of going to trial



POINTS TO REMEMBER

- Sentencing Guidelines



POINTS TO REMEMBER

- Sentencing Guidelines
- Know The Players



POINTS TO REMEMBER

- Sentencing Guidelines
- Know The Players
- Reputation



POINTS TO REMEMBER

- Sentencing Guidelines
- Know The Players
- Reputation
- Ethics

GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

A lawyer shall provide competent representation to a client. Competent representation as used in this Rule means that a lawyer shall not handle a matter which the lawyer knows or should know to be beyond the lawyer's level of competence without associating another lawyer who the original lawyer reasonably believes to be competent to handle the matter in question. Competence requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

Thoroughness and Preparation

[5] Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more elaborate treatment than matters of lesser consequence.



GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

- Communicate with your client



GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

- Communicate with your client
- Charge negotiations



GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

- Communicate with your client
- Charge negotiations
- Initial Meeting with AUSA



GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

- Communicate with your client
- Charge negotiations
- Initial Meeting with AUSA
- Lawyer Proffer



GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

- Communicate with your client
- Charge negotiations
- Initial Meeting with AUSA
- Lawyer Proffer
 - What if Government says you're wrong during your proffer?



GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

- Communicate with your client
- Charge negotiations
- Initial Meeting with AUSA
- Lawyer Proffer
- Client Proffer



GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

- Communicate with your client
- Charge negotiations
- Initial Meeting with AUSA
- Lawyer Proffer
- Client Proffer
- Bond



GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

- Communicate with your client
- Charge negotiations
- Initial Meeting with AUSA
- Lawyer Proffer
- Client Proffer
- Bond
- Charge Bargaining



GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

- Sentencing Factors



GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

- Sentencing Factors
 - Amount of the loss or drugs
 - Candor
 - Role in Offense
 - Special Traits



GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

- Sentencing Factors
- Variance



GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

- Sentencing Factors
- Variance
- Contact Sentencing Commission



GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

- Sentencing Factors
- Variance
- Contact Sentencing Commission
- USSC Statistics



GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

- Sentencing Factors
- Variance
- Contact Sentencing Commission
- USSC Statistics
- Facts at Sentencing



GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

- Sentencing Factors
- Variance
- Contact Sentencing Commission
- USSC Statistics
- Facts at Sentencing
- Where



GEORGIA RULES OF PROFESSIONALISM

RULE 1.1 COMPETENCE

- Sentencing Factors
- Variance
- Contact Sentencing Commission
- USSC Statistics
- Facts at Sentencing
- Where
- Restitution/in advance