MISSISSIPPI OFFICE OF PUBLIC DEFENDER SPRING JUVENILE DEFENDER CONFERENCE

VIEWS FROM THE BENCH: ADVOCATING FOR YOUR CLIENT



MOTIONS

SCENARIO

- You have been appointed/retained for a 16 year old juvenile who is accused of assault on a police officer.
- What is the first thing you need to know?

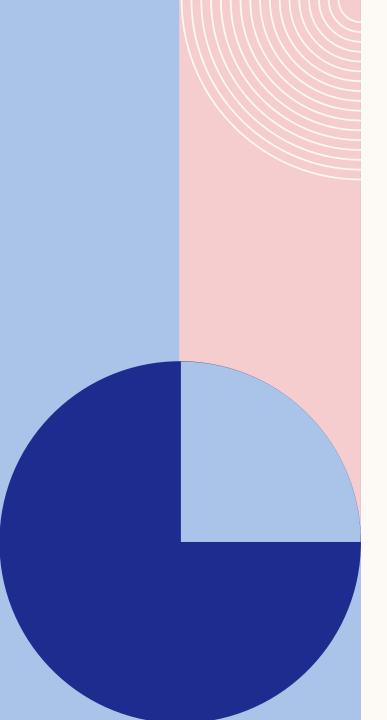


ADVOCACY

MOTION FOR DISCOVERY

You need to know exactly what type of evidence they have against your client.

Some jurisdictions are very open and liberal about not requiring you to file a Motion for Discovery, but it is always good practice to file one.



SCENARIO CONTINUED

- The police report says that the officer was the school resource officer and on the day in question was trying to break up a fight between your client and another student.
- He came up behind your client and attempted to restrain him. Your client elbowed him in the face.
- The officer says he identified himself before placing hands on your client. Your client says that never happened.
- Is there any problem with the evidence?

MOTION TO DISMISS

- What is the basis of your Motion to Dismiss?
- Let's say the Judge doesn't grant your motion for some reason.
- What is your next step?

SCENARIO CONTINUED

You find out through interviews that the school has video evidence of the assault along with audio. The prosecution has not turned that over to you. What do you do? How do you get the evidence you need?



MOTION TO COMPEL

You file a Motion to Compel with the Court stating that you have reason to believe that all the evidence has not been turned over to you.

Make the Motion as detailed as possible, giving the prosecution no wiggle room to escape giving you the footage.



DEMURRER

If your Motion to Dismiss at first fails, try and attack the sufficiency of the evidence to get the case thrown out on those grounds.

Read the Petition carefully and see if it establishes the elements need for the crime of Assault on a Police Officer. The Petition will sometimes be insufficient on its face.

If you can get at least parts of the evidence thrown out, then the next time you file a Motion to Dismiss, it may succeed.

MOTIONS AFTER DISPOSITION

- Your zealous advocacy doesn't end after the initial Disposition.
- Dispositions can and should be modified if the circumstances call for it.
- If the juvenile after all your hard work is still found to be delinquent, there are still options.
- For essentially,: if the juvenile is ordered to be placed on supervised probation for a year, pay court fines, and attend counseling but after 6 months the fines are paid and the counselor says that further treatment is not necessary, you need to file a Motion to Modify Disposition.
- This will release him from the terms of the probation because essentially he has completed it all.

FINAL THOUGHTS?

What other Motions can be filed in the interest of Justice?

- Motion to Release from Detention
- Motion to Term Probation and Release Minor from jurisdiction of Court
- Always remember to advocate for your client from beginning to End!