

**KENTUCKY PUBLIC DEFENDER COLLEGE
WEEK THREE
CIRCUIT COURT TRAINING**

Monday, March 26, 2007

1:00 p.m. – 1:30 p.m. Introduction to Circuit Court Training
- Glenn McClister

LEARNING OBJECTIVES:

- Overview the topics to be covered during the week and the schedule;
- Review materials;
- Renew introductions

1:30 p.m. – 2:30 p.m. Maintaining Successful Client Relationships
- Jay Barrett, Glenn McClister

LEARNING OBJECTIVES:

- Address the importance of maintaining successful client relationships;
- Overview the techniques of advanced interviewing;
- Review videos demonstrating successful client relationships and active listening.

2:45 p.m. – 4:30 p.m. Advanced Interviewing and Dealing with Difficult Clients

LEARNING OBJECTIVES:

- To learn the techniques of advanced interviewing by actually interviewing each other. One attorney will role play one of her clients and be interviewed by the other attorney using the techniques suggested. The two will then switch roles and have another interview. Attorneys will be coached as they conduct their interviews.

Tuesday, March 27, 2007

8:30 a.m. – 9:45 a.m. Discovery in Circuit Court
- Jay Barrett

LEARNING OBJECTIVES:

- Understand what the defense is entitled to under the Rules of Criminal Procedure;
- Understand what the defense is entitled to under Kentucky and Federal caselaw;
- Discuss strategies to deal with “open file” discovery;
- Discuss techniques for uncovering exculpatory evidence;
- Discuss duties to provide reciprocal discovery;
- Discuss the attorney-investigator relationship

10:00 – 11:30 a.m. Defending Child Sexual Abuse Cases
- Ernie Lewis

LEARNING OBJECTIVES:

- Review the issues and caselaw surrounding handling child sexual abuse cases;
- Present approaches to trying child sexual abuse cases;
- Brainstorm a factual situation.

Lunch 11:30 a.m. – 12:30 p.m.

12:30 – 4:30 p.m. Mental Health Defenses and the Use of Experts
- Roger Gibbs, Dr. David Finke

LEARNING OBJECTIVES:

- Understand the mental health defenses available in Kentucky;
- Understand what to look for in a mental health expert and how to obtain one;
- Argue a motion for funds;
- Understand different tests of mental health and diagnoses;
- Discuss dealing with incompetent clients.

Wednesday, March 28, 2007

8:30 a.m. - noon Trial Law and Preserving the Record
- Glenn McClister, Shelly Fears

LEARNING OBJECTIVES:

- Review the law of preservation of error concerning voir dire, openings and closings, giving instructions, etc., using the Preservation Manual;
- Learn the elements of an objection and practice making complete objections on the record;
- Learn the importance of pre-trial motion strategy and motions in limine;

Lunch 12:00 p.m. – 1:00 p.m.

1:00 p.m. – 2:30 p.m. Search, Seizure, and Suppression
- Tom Griffiths, Ernie Lewis

LEARNING OBJECTIVES:

- Review the law of search and seizure, arrest and confessions;
- Analyze specific case problems and apply the law to the facts;
- Discuss planning for a suppression hearing;
- Watch a video of a successful suppression hearing.

2:45 p.m. – 4:30 p.m. Conducting a *Daubert* Hearing
- Susan Balliet

LEARNING OBJECTIVES:

- Review the law concerning admissibility of scientific testimony in Kentucky;
- Learn to conduct a *Daubert* hearing.

Thursday, March 29, 2007

8:30 a.m. – noon Kentucky Evidence Law
- John Palombi

LEARNING OBJECTIVES:

- Become more efficient in the tactical use of the Kentucky Rules of Evidence and Evidence Manual;
- Learn to identify relevant evidentiary issues in a case problem;
- Learn which KRE applies to each issue;
- Anticipate likely objections from the prosecution;
- Identify what the prosecution is doing wrong in using the KRE;
- Explore the policy presumptions behind KRE and its relationship to the Constitution;
- Use KRE to structure theories and themes;
- Understand recent changes in KRE – last June and next June.

Lunch 12:00 p.m. – 1:00 p.m.

1:00 p.m. - 2:30 p.m. Preliminary Hearings
- Glenn McClister

LEARNING OBJECTIVES:

- To brainstorm and plan a preliminary hearing using an actual case;
- To review resources available for planning preliminary hearings;
- To view the preliminary hearing actually held in the case;
- To discover the impact of having the hearing on the final outcome of the case.

2:45 p.m. – 4:30 p.m. Initiating the Appeal, and Cooperating in Post-Conviction Actions
- Damon Preston

LEARNING OBJECTIVES:

- Steps to taking appeal from district court to circuit court
- Steps to taking appeal from circuit court case
 1. New trial motion;
 2. Motion for judgment notwithstanding the verdict;

3. Order for indigent defendant to proceed on appeal *in forma pauperis*;
4. Order appointing DPA to represent the indigent defendant on appeal;
5. Notice of Appeal of Order denying *in forma pauperis*;
6. Bail pending appeal;
7. Notice of appeal;
8. Designation of record;
9. Certificate as to transcript;
10. Motion for Extension to Certify Record;
11. Notification to DPA Appellate Branch Manager.

Understand the trial attorney's duty to cooperate and participate in post-conviction proceedings.

Friday, March 30, 2007

9:00 a.m. – noon Sentencing Law and Advocacy
 - La Mer Kyle-Griffiths, Glenn McClister

LEARNING OBJECTIVES:

- To learn the role of leniency in the new sentencing statute
- To discuss the continued use of your theory in the sentencing phase of the trial;
- To explain KRS 532.055 and how it functions in a trial;
- To give an overview of the developing caselaw on Truth-in-Sentencing;
- To explore constitutional challenges remaining;
- To give practice tips on what can be done to persuade jurors during the second phase of a trial;
- To examine sample instructions
- To challenge Parole Eligibility guidelines.
- Creation of Alternative Sentencing Plan
- Use of Alternative Sentencing in Pretrial Release
- Use of Alternative Sentencing in Negotiation
- Use in Probation arguments
- To provide an overview of the PFO and other subsequent offender statutes and caselaw;
- To provide practice tips on how to defend these cases; particular emphasis will be given on how to challenge the use of prior offenses, particularly after recent caselaw;

Lunch 12:00 p.m. – 1:00 p.m.

1:00 p.m. – 3:00 p.m. Advanced Interviewing in a Sentencing Context