Plea in Mitigation - a 12 step guide

Before hearing

Step 1 → Check sentencing guidance
- Magistrates Court → https://www.sentencingcouncil.org.uk/offences/
- Crown Court → https://www.sentencingcouncil.org.uk/crown-court
- CPS → https://www.cps.gov.uk/legal-guidance/sentencing-overview

Step 2 → discuss instructions / issues with Defendant

Step 3 → try to agree harm / culpability / starting point / category range with Counsel for the Crown / Prosecution

During hearing

Do not
- EVER EVER EVER use the words / phrases "I think...", "in my opinion...", "in my view...". EVER
- repeat what is said by the prosecution in opening the case

Do
- use the words / phrases "I submit...", "in my submission..."
- if appropriate, identify the number of points to be made under each step

Step 4 → tell the court what sentence you will be asking the court to pass

Step 5 → offence catagory
- if agreed...
- if not agreed (or if the judge asks)...

submissions on offence category etc. for each offence
- Harm
- Culpability
- Starting point
- Catagory range

Step 6 → INCREASING seriousness → identify statutory and other aggravating features

submissions to REDUCE the effect statutory and other aggravating features

Step 7 → REDUCING seriousness → identify factors REDUCING seriousness

submissions to INCREASE the effect of factors reducing seriousness

Step 8 → Mitigation submissions setting out...
- Further **offence mitigation** (in addition to the above)
- Any **personal mitigation** (inc. Pre-sentence report (PSR))

Step 9 → identify and make submissions on factors that support a Reduction
- e.g. helping the prosecution
- e.g. pleading guilty
- e.g. time on remand / on bail, but tagged

Step 10 → submissions on totality (if appropriate)

Step 11 → submissions on confiscation, compensation and ancillary orders, the effect of, and ability to meet, such orders

Step 12 → end plea in mitigation / sit down

© Myles Watkins / Middle Temple 2021