

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF WEST VIRGINIA

IN RE: RETROACTIVE APPLICATION  
OF U.S.S.G. AMENDMENT 821

MISC. NO. 1:23-MC-71

STANDING ORDER

Pursuant to the provisions of the Criminal Justice Act, 18 U.S.C. §§ 3006(a)(1) and (c), and in accordance with the retroactive application of U.S.S.G. Amendment 821, the Office of the Federal Public Defender for the Northern District of West Virginia ("Federal Public Defender's Office") is appointed to represent any defendant previously determined to have been entitled to appointment of counsel or found indigent by the Court (i) whose name appears on the lists of defendants, potentially qualifying for a reduction of sentence, supplied by the United States Sentencing Commission, Administrative Office of the United States Court, United States Probation Office ("Probation Office") Federal Public Defender's Office, or Office of the United States Attorney for the Northern District of West Virginia ("U.S. Attorney's Office") or (ii) who files a pro se motion for relief seeking a sentence reduction under the retroactive application of U.S.S.G. Amendment 821. The Probation Office, U.S. Attorney's Office and Federal Public Defender Office shall assess whether these defendants may qualify for a reduction of sentence, and the Federal Public Defender's Office shall represent those defendants with respect to any possible motions for reductions of sentence pursuant to U.S.S.G. Amendment 821 and 18 U.S.C. § 3582(c)(2). The

appointment is limited to those cases affected or potentially affected by this amendment and will terminate upon the district court's ruling or the conclusion of the appellate process, unless otherwise ordered by the Court.


The Probation Office is authorized to disclose the defendants' Presentence Investigation Reports or Modified Presentence Investigation Reports, Judgments, and Statements of Reason to the Federal Public Defender's Office or retained counsel, and the U.S. Attorney's Office. The Federal Public Defender's Office shall ascertain the defendants' eligibility for relief and whether conflicts of interest preclude it from representation. The Federal Public Defender's Office shall notify the Court upon identifying a prohibitive conflict in which the prospective client's interests are materially adverse to those of current or former client, and the Court will consider appointing a member of the Criminal Justice Act panel of this district. The Federal Public Defender's Office shall provide the Presentence Investigation Report or Modified Presentence Report, Judgment, and Statement of Reasons to any subsequently appointed counsel. In accordance with the policy of the Federal Bureau of Prisons, no Presentence Investigation Reports, Modified Presentence Investigations Reports or Statements of Reasons shall be provided to inmates.

The Office of the Clerk of Court for the Northern District of West Virginia ("Clerk's Office") is authorized to disclose to the

Federal Public Defender's Office or retained counsel, and the U.S. Attorney's Office, documents from the defendants' case file that are not otherwise available through the judiciary's Public Access to the Court Electronic Records ("PACER") service to determine the defendants' eligibility, the extend for relief, and conflicts. Specifically, the Clerk's Office may disclose U.S.S.G. § 5K1.1 motions and orders, motions and orders related to Fed. R. Crim. P. 35, plea agreements, charging documents, notices of enhancement under 21 U.S.C. § 851, transcripts available pursuant to Judicial Conference Policy, verdicts, and motions under 28 U.S.C. § 2255. The Federal Public Defender's Office may not distribute such documents except to subsequently appointed counsel, unless otherwise ordered by the Court. Subsequently appointed or retained counsel may not further distribute such documents, unless otherwise ordered by the Court.

The Court directs the Clerk to transmit copies of this Order to William J. Ihlenfeld, II, United States Attorney; Brian Kornbrath, Federal Public Defender; and Jon B. Wright, Chief United States Probation Officer.

SO ORDERED, THIS 12th DAY OF OCTOBER, 2023.

  
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THOMAS S. KLEE, CHIEF JUDGE  
NORTHERN DISTRICT OF WEST VIRGINIA