


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
23-SO-6

FILED

OCT 19 2023

PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC
BY  DEP. CLK

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

STANDING ORDER

Pursuant to the provisions of the Criminal Justice Act, 18 U.S.C. §§ 3006A(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 Eastern District of North Carolina (“Federal Public Defender’s Office”) is appointed to represent any defendant serving a federal sentence (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 Courts, United States Probation Office (“U.S. Probation Office”), Federal Public Defender’s Office, or Office of the United States Attorney for the Eastern District of North Carolina (“U.S. Attorney’s Office”); or (ii) who files a pro se motion for relief seeking a sentencing reduction under the retroactive application of U.S.S.G. Amendment 821, provided that the defendant was previously determined to have been entitled to appointment of counsel or was previously represented by the Federal Public Defender’s Office at the district court level through the completion of sentencing, or though not indigent at the time of trial, judgment, or sentencing, is now indigent, so long as no conflict exists between that defendant and a current or former client of the Federal Public Defender’s Office. The U.S. Probation 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). In the event the Federal Public Defender’s Office is unable to represent a defendant, attorneys serving on the Criminal Justice Act panel for the Eastern District


of North Carolina may be appointed to represent these defendants. This 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 U.S. Probation Office is authorized to disclose the defendants' Presentence Investigation Reports or Modified Presentence Investigation Reports, Judgments, Statements of Reasons, and SENTRY reports to the Federal Public Defender's Office, appointed Criminal Justice Act panel counsel, and retained counsel, for the purposes of determining eligibility for relief. Upon request by the U.S. Attorney's Office, the U.S. Probation Office also shall provide copies of the Presentence Investigation Reports or Modified Presentence Investigation Reports, Judgments, Statements of Reasons, and SENTRY reports in these cases to the U.S. Attorney's Office. In accordance with Federal Bureau of Prisons policy, counsel shall not provide copies of Presentence Investigation Reports, Modified Presentence Investigation Reports, or Statements of Reasons to inmates. Similarly, counsel may not further distribute SENTRY reports received pursuant to this Order.

The Clerk's Office for the Eastern District of North Carolina is authorized to disclose relevant and necessary documents from the case file as needed for determining eligibility for relief, including sealed or restricted documents (to the extent that the requesting party would have had access to the sealed or restricted documents in the original case), to the Federal Public Defender's Office, appointed Criminal Justice Act Panel counsel, retained counsel, and the U.S. Attorney's Office. Counsel may not further distribute documents provided by the Clerk's Office pursuant to this Order, except to subsequently appointed or retained counsel, unless otherwise ordered by the Court. Subsequently appointed or retained counsel may not further distribute such documents, unless otherwise ordered by the Court.

Any report filed by the U.S. Probation Office in response to a motion for relief seeking a sentencing reduction under the retroactive application of U.S.S.G Amendment 821, including any acknowledgment executed by the U.S. Attorney's Office and counsel for a defendant, shall be filed in CM/ECF under seal (with access restricted to the Court, the U.S. Probation Office, attorneys of record for the U.S. Attorney's Office and for the relevant defendant) and shall otherwise be disclosed only upon order.

SO ORDERED. This the 19th day of October, 2023.


RICHARD E. MYERS II
Chief United States District Judge