

Nov 21 2023

United States District Court
Northern District of Ohio
General Order

GENERAL ORDER NO. 2023-20

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

IN RE: MOTIONS FOR APPLICATION
OF RETROACTIVE 2023 CRIMINAL
HISTORY AMENDMENTS IN
ACCORDANCE WITH 18 U.S.C.
§ 3582(c)(2) AND AMENDMENT 821
TO THE SENTENCING GUIDELINES

ORDER NO. 2023-20

I. Appointment of the Federal Public Defender

Pursuant to the provisions of the Criminal Justice Act, 18 U.S.C. §§ 3006A(a)(1) and (c), the Office of the Federal Public Defender for the Northern District of Ohio is hereby appointed to represent those indigent defendants¹ who have been identified as being potentially eligible to seek a reduction of sentence, and to present any motions or applications for reduction of sentence, in accordance with 18 U.S.C. § 3582(c)(2) and Amendment 821 (the 2023 Criminal History Amendments) to the Sentencing Guidelines, including Part A (Status Points under § 4A1.1) and Part B (Zero-Point Offenders), made retroactive by the United States Sentencing Commission. Additionally, the Federal Public Defender for the Northern District of Ohio is hereby appointed to represent all defendants who file pro se motions seeking criminal history reductions pursuant to the 2023 Criminal History Amendment.

II. Appointment of Counsel in the Event of Conflict

In the event it is subsequently determined that private counsel or previously appointed Criminal Justice Act (CJA) counsel should be appointed to represent a defendant, such counsel shall be appointed and the Federal Public Defender shall withdraw. Should the

¹ The Office of Federal Public Defender and CJA appointed counsel are reminded of their obligation to report significant changes in a defendant's employment or financial circumstances sufficient to enable defendant to pay, in whole or in part, for legal representation.

Federal Public Defender determine that there is a prohibitive conflict in which the prospective client's interests are materially adverse to those of a current or former client with regard to representation of a defendant in the litigation, the Office of the Federal Public Defender shall notify the Court and request appointment of a member of the CJA Panel.

III. Authorization to Disclose Presentence Report and Sentencing Documents

The Court hereby authorizes the disclosure to the Office of the Federal Public Defender for the Northern District of Ohio, or to CJA counsel if appointed, and to the Office of the United States Attorney for the Northern District of Ohio of all presentence investigation reports and sentencing orders, including those portions of such orders not available through the Court's electronic filing system (statement of reasons), for those inmates who have been identified as being potentially eligible for sentence reductions pursuant to the 2023 Criminal History Amendments. The disclosure authorized by this Order shall be for the sole purpose of enabling both offices to make an assessment as to an inmate's eligibility for a sentence reduction under the new retroactive guidelines described herein.

IV. Motion Briefing Protocol

Motions filed pursuant to the 2023 Criminal History Amendments, which are governed by this General Order, should be filed separately from motions filed pursuant to Section 603(b) of the First Step Act of 2018, 18 U.S.C. Sections 3582(c) and (d) (First Step Act Compassionate Release), which are governed by Amended General Order No. 2020-07-3. If the Clerk of Court receives a pro se motion seeking remedies under both provisions, the Clerk of Court should docket separate entries for each requested remedy (i.e., motion for application of retroactive 2023 Criminal History Amendments or motion for First Step Act Compassionate Release), and the parties should thereafter address each request for remedy separately, in accordance with the applicable governing general order.

V. Motion Briefing Schedule

In the case of a motion or application for a reduction pursuant to the 2023 Criminal History Amendments initiated by the Office of the Federal Public Defender, a CJA appointed attorney, or a privately retained attorney, the government will have fourteen (14) days to file a response.

In the case of a motion or application for a reduction pursuant to the 2023 Criminal History Amendment initiated by a pro se plaintiff, the Office of the Federal Public Defender will have fourteen (14) days to file a supplement to the motion or a notice of no supplement, and the government will have fourteen (14) days thereafter to file a response.

In the case where counsel is appointed due to a conflict of the Office of the Federal Public Defender, unless ordered otherwise, appointed counsel will have fourteen (14) days from the date of appointment to file a supplement, motion, or a notice of no supplement, as appropriate, and the government will have fourteen (14) days thereafter to file a response.

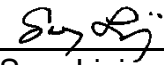
Nothing in this order prevents a Judge from revising the above time periods either on motion of a party or if doing so is in the interest of justice in any particular case.

VI. Application of Order

Appointment under this Order applies only to relief pursuant to the retroactive 2023 Criminal History Amendments.

IT IS SO ORDERED.

FOR THE COURT



Sara Lioi
Chief Judge