FILED

DEC 19 2007

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

In Re: Petitions for Retroactive Application of Amendment to Sentences Previously Imposed for Certain Crack Cocaine Offenses **No.** 102

ADMINISTRATIVE ORDER

Herndon, Chief Judge:

The United States Sentencing Commission (USSC) has reduced somewhat the longstanding disparity between sentences recommended by it for powder cocaine and crack cocaine in the advisory sentencing guidelines. The prospective effective date was November 1, 2007. In the exercise of its lawful authority, the Commission decided to make its advisory guidelines for these offenses, under certain circumstances upon the appropriate findings of the presiding judge, retroactive. However, the effective date of this retroactive application is not until March 3, 2008. Consequently, the Court cannot act on any petitions requesting a reduction in sentence prior to that date.

This Court, *en banc*, has determined that any petitions filed prior to that date will be stayed until March 3, 2008. However, regardless of that stay, the Federal Public Defenders Office (FPD) is hereby designated to represent each defendant (petitioner) who files such a petition or motion, by whatever nomenclature the litigant places on the document. The Public Defenders Office shall thereupon decide specifically which attorney within the office shall individually be assigned which files. Should the FPD determine there is a conflict for that particular defendant, it shall enlist the FPD of the Eastern District of Missouri for representation of that defendant through the interoffice agreement it has worked out with that office for that purpose. If the FPD plans to file an amended petition/motion for reduction, it may do so on March 3, 2008, but it shall provide courtesy copies to the U.S. Attorney's office on February 27, 2008.

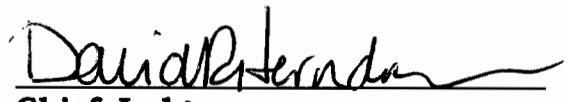
The U.S. Attorney's Office is not required to file a response to any such filing (petition or motion) so filed by the defendant seeking a reduction until March 10, 2008. Prior to that date, the Court in concert with the U.S. Attorney's office and the FPD will work together to determine the procedural and logistical issues relative

to the handling of such cases. The USSC has identified 27 defendants who will be eligible for immediate release, if the presiding judge so determines, in March, with another 25 within the first year after the amendment. Priority in sequence of handling will be accorded those first 27 who are potentially eligible immediately and the next 25 thereafter. It is noted that the U.S. Attorney's office and the FPD have consented, in general principle, to utilizing video conferencing equipment when possible.

The clerks office is directed to implement this order by entering the FPD as attorney of record in each case relevant to the issues discussed in this order, sending a copy of this order to the defendant, petitioner, movant, litigant who seeks to have his sentence reduced pursuant to the USSC amendment and who files his moving document prior to March 3, 2008, and to send copies of this order to the FPD, U.S. Attorney and posting it on the District Court's website.

IT IS SO ORDERED.

Signed this 19th day of December, 2007.



Chief Judge
United States District Court