

FILED

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

JAN 23 2019

In Re: First Step Act of 2018)
Application of the Fair Sentencing Act) No. 234

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS OFFICE

ADMINISTRATIVE ORDER

On December 21, 2018, the President signed into law Senate Bill 756, the First Step Act of 2018. Section 404 of the First Step Act makes the amendments made to 21 U.S.C. § 841(b)(1)(A)(iii) and (B)(iii) by section 2 of the Fair Sentencing Act of 2010, retroactive to cases in which the defendant was sentenced for a cocaine base (crack) offense committed prior to August 3, 2010. For such offenses the district court may reduce a defendant's sentence as if the Fair Sentencing Act were in effect at the time the offense was committed.

To ensure the efficient adjudication of requests seeking a reduced sentence pursuant to § 404 of the First Step Act, the Court orders the following:

1. The Chief Judge has received from the United States Sentencing Commission, a list of the offenders the Sentencing Commission believes to be eligible under Section 404 of the First Step Act. The United States Probation Office shall provide the Court with a list of defendants who are currently either incarcerated, or on supervised release who it determines may be eligible to be considered for a sentence reduction pursuant to the First Step Act.

2. The Court is not authorized to appoint counsel for defendants seeking relief under the First Step Act. *See* United States v. Foster, 706 F.3d 887 (7th Cir. 2013). As a service to the affected defendants, the Federal Public Defender's Office ("FPD") is willing to enter its appearance on behalf of all defendants who may be eligible for relief pursuant to Section 404 of the First Step Act. The FPD is hereby authorized to enter its appearance and file a motion for a reduced sentence on behalf of all potentially eligible defendants. Should there be a conflict of interest between any defendant and the FPD, the Court shall be notified, and the Federal Public Defender's Office for the Eastern District of Missouri will be authorized to enter its appearance.

3. Upon counsel's entry of appearance, the United States Probation Office and the Clerk of Court are authorized to disclose copies of judgments, presentence investigation reports, addendums and statements of reasons to the FPD and the Government for the purpose of determining eligibility for relief.

4. The Court will notify the FPD of all pro se requests seeking relief pursuant to Section 404 of the First Step Act, regardless of the nomenclature the defendant uses in the document. The FPD shall enter an appearance within seven days of such notice.

5. Within 21 days of entering an appearance, the FPD shall file either a motion for a reduced sentence, or a motion to withdraw, if the FPD determines the request is frivolous. If the FPD moves to withdraw, it shall send a copy of the motion to the defendant's last known address. The defendant will have 30 days from the date of service to respond to a motion to withdraw.

6. The Government shall respond within 21 days to any motion for a reduced sentence filed by the FPD.

7. All cases subject to this Order shall be assigned to the initial sentencing Judge, and if not available, by reassignment through the Chief Judge.

8. Whether or not a defendant is represented by counsel, the presiding Judge will carefully review each motion for a reduced sentence to determine if a reduction is in order under the law.

IT IS SO ORDERED

Dated: January 23, 2019

s/ Michael J. Reagan

Michael J. Reagan

Chief Judge

UNITED STATES DISTRICT COURT