

FILED

APR 23 2020

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

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

**In Re: Compassionate Release Provision of
The First Step Act of 2018**

Administrative Order No. 265

ADMINISTRATIVE ORDER

On December 21, 2018, the President signed into law Senate Bill 756, the First Step Act of 2018. Title VI, Section 603(b) of the First Step Act reforms 18 U.S.C. § 3582(c)(1)(A) and allows a defendant to move a federal court for compassionate release “after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier” (emphasis added).

To ensure the efficient adjudication of compassionate release motions pursuant to Section 603(b) of the First Step Act, the undersigned, as Chief Judge, orders the following:

1. 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 file a motion directly with this district court for compassionate relief pursuant to Section 603(b) of the First Step Act. Should there be a conflict of interest between any defendant and the FPD, the Court shall be notified, and the Federal Public Defender for the Eastern District of Missouri will be authorized to enter its appearance.
2. Any defendant not previously represented by the FPD or a CJA attorney will need to complete an *in forma pauperis* application.
3. The Court will notify the FPD of all *pro se* motions seeking relief pursuant to Section 603 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.
4. Upon counsel’s entry of appearance, the United States Probation Office (“USPO”), the U.S. Attorney’s Office (“USAO”), and the Clerk of Court are authorized to disclose copies of all relevant medical records,¹ judgments, presentence investigation reports, addenda, statements of reasons, and other relevant documents to the FPD and the U.S. Attorney’s Office (“USAO”) for the purpose of determining eligibility for relief.

¹ Under 45 C.F.R. § 164.512(e), this Administrative Order constitutes a “court order” for the disclosure of protected health information.

5. The USAO, without delay, shall provide the FPD and USPO with copies of all relevant records, including medical records.
6. The FPD, without delay, shall file a supplement to the defendant's *pro se* motion. If the FPD determines the defendant's motion needs no supplementation, is untimely or frivolous, the FPD shall file a motion to withdraw. The FPD also shall notify the defendant if it will not be filing a supplemental motion.
7. The FPD may also enter its appearance if a defendant contacts the FPD to file the motion on the defendant's behalf and the FPD determines the motion would not be frivolous. In addition, previous counsel may file a motion on behalf of his or her client if contacted to do so and if the previous counsel determines the motion would not be frivolous.
8. The FPD or other attorney for the defendant shall file a non-frivolous motion on the defendant's behalf without delay.
9. The USPO will conduct a preliminary investigation that will include a home assessment and shall require the assigned probation officer to speak to the family members/caregivers and case managers to determine whether the inmate may be safely released. The USPO shall complete a memo detailing the results of its investigation to all parties.
10. The USAO shall respond to a compassionate release motion filed by counsel or the FPD's notice within five days of receipt of the USPO's memo.
11. All cases subject to this Order shall be assigned to the initial sentencing Judge, and if not available, by random reassignment by the Clerk of Court.

IT IS SO ORDERED.

DATED: April 23, 2020



NANCY J. ROSENSTENGEL
Chief U.S. District Judge