

FILED

OCT 30 2023

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

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

IN RE:)
PROCEDURES FOR PROCESSING)
MOTIONS FILED UNDER) **Administrative Order No. 362**
AMENDMENT 821 OF THE UNITED)
STATES SENTENCING GUIDELINES.)

ADMINISTRATIVE ORDER

On April 27, 2023, the United States Sentencing Commission submitted to Congress Amendment 821, which revises how two criminal history provisions in the federal sentencing guidelines calculate an offender's criminal history. Part A of Amendment 821 addresses status points; Part B applies to defendants with zero criminal history points.

On August 24, 2023, the Commission voted to give Parts A and B of Amendment 821 retroactive effect, with a requirement that individuals could not be released from federal custody pursuant to Amendment 821 prior to February 1, 2024.

Parts A and B of Amendment 821 take effect on November 1, 2023, absent Congressional action. The United States Sentencing Commission has provided the undersigned with a list of individuals the Commission believes may be eligible for a reduced sentence pursuant to Parts A and B of Amendment 821. To ensure the efficient adjudication of motions for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2), the Court **ORDERS** the following:

1. While individuals are not entitled to the appointment of counsel for motions brought under Section 3582, as a service to the affected individuals and having agreed to take appointments, the Federal Public Defender's Office ("FPD") is appointed generally in all criminal cases arising in this district under 18 U.S.C. § 3582, where an individual seeks counsel and financially qualifies for such appointment.
2. The Court will notify the FPD of all *pro se* motions filed in criminal cases in this district seeking a sentence reduction pursuant to Amendment 821, regardless of the nomenclature the individual uses in the document. The FPD shall enter an appearance within **seven days** of such notice.
3. Should an individual contact the FPD directly, that office may enter an appearance if the FPD determines the motion would not be frivolous.

4. Any individual not previously represented by the FPD or a CJA panel attorney must complete a financial affidavit using the CJA 23 form. The presiding judge will review the financial affidavit to determine the individual's eligibility for the appointment of the FPD. In addition, previously appointed counsel may file a motion on behalf of his or her client if the attorney voluntarily agrees to the representation without payment from the Criminal Justice Act and if counsel determines the motion would not be frivolous. Retained counsel shall follow the deadlines set forth in this Order for the FPD.
5. Should there be a conflict of interest between anyone seeking representation and the FPD, the Court shall be notified in writing.
6. Upon defense counsel's entry of appearance, the United States Probation Office ("USPO") and the Clerk of Court are authorized to disclose copies of all judgments, presentence investigation reports, addenda, statements of reasons, and other relevant documents to the FPD and the United States Attorney's Office ("USAO") for the purpose of determining eligibility for a reduced sentence.
7. 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 that the request is frivolous.
8. If the FPD moves to withdraw, a copy of the motion shall be sent to the individual's last known address. That individual shall have **30 days** from the date of service to respond to a motion to withdraw.
9. The United States shall respond to any motion to reduce a sentence by a defense attorney within **21 days**.
10. The presiding judge in his or her discretion may order defense counsel to submit a reply brief.
11. Requests for additional time will be considered on a case-by-case basis.
12. All Section 3582(c)(2) motions subject to this Order shall be assigned to the initial sentencing Judge, or if not available, by reassignment through the Chief Judge.
13. Motions filed by individuals who were not sentenced in this district will be directly assigned in equal shares to Chief Judge Nancy J. Rosenstengel and Senior District Judge J. Phil Gilbert.

14. Whether or not an individual is represented by counsel, the presiding judge will carefully review each motion to determine if a sentence reduction is warranted under the law.

IT IS SO ORDERED.

DATED: October 30, 2023

A handwritten signature in black ink that reads "Nancy J. Rosenstengel". The signature is written in a cursive style with a large, looped initial "N".

NANCY J. ROSENSTENGEL
Chief U.S. District Judge