

FILED

Oct 31, 2023

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

IN RE:) GENERAL ORDER NO. 670
)
RETROACTIVE AND OTHER)
APPLICATIONS OF THE UNITED)
STATES SENTENCING)
GUIDELINES 2023 AMENDMENTS)
TO U.S.S.G. §§ 1B1.13 (STATUS)
CRIMINAL HISTORY POINTS))
AND 1B1.10 (ZERO CRIMINAL)
HISTORY POINTS).)
)
_____)

As provided by the Criminal Justice Act, Title 18 U.S.C. § 3006A(a)(1) and (c), and because of the need to efficiently (a) review defendant inquiries about and (b) process motions or petitions made in light of the retroactive application of the 2023 United States Sentencing Guidelines amendments to U.S.S.G. §§ 1B1.13 and 1B1.10 concerning status and zero Criminal History points, and with the understanding the Federal Defender for the Eastern District of California (“Federal Defender’s Office”) and the United States Attorney’s Office for the Eastern District of California (“United States Attorney’s Office”) will meet and confer to facilitate efficient review and processing of these inquiries, motions and petitions,

IT IS HEREBY ORDERED the court appoints the Federal Defender’s Office to represent any defendant previously determined to have qualified for counsel appointment or who is now indigent:

- to determine whether that defendant may qualify for federal relief under any of the 2023 *United States Sentencing Guidelines* amendments to U.S.S.G. §§ 1B1.13 and 1B1.10 concerning status and zero Criminal History points, and

- to present any petitions, motions, or applications relating thereto to the court for disposition.

If the Federal Defender's Office or previously appointed counsel believes a conflict exists preventing the Federal Defender's Office from assuming an individual defendant's representation, counsel will bring such conflict to the court's attention to adjudicate the issue.

The court authorizes the California Eastern District's United States Probation Office and United States District Court Clerk's Office to disclose to the Federal Defender's Office and the United States Attorney's Office Presentence Investigation Reports, Statements of Reasons, and Judgments in a Criminal Case, including any under seal Informal Objections, Judgments, letters, Motions for Departure based on Substantial Assistance under U.S.S.G. § 5K.1.1, and other documents necessary to determine:

- Whether particular defendants are eligible for sentence reduction under the retroactive amendments, and
- Whether a conflict exists precluding the Federal Defender from representing any defendant.

In the event a defendant represented by counsel files a motion for relief, the United States Attorney's Office will have thirty (30) days to respond unless the parties agree to an expedited schedule and submit a proposed stipulation to the court.

Further, the court will endeavor to promptly notify the Federal Defender's Office of all pending *pro se* motions and petitions seeking 2023 Guideline Amendment relief so the Federal Defender's Office can assume timely representation, and also will notify the Federal Defender's Office when any defendant files a new motion or petition for a writ of habeas corpus seeking retroactive application of a United States Sentencing Guidelines' status and/or zero Criminal History points provision.

The Federal Defender's Office will then have twenty-eight (28) days from the filing of a *pro se* motion seeking relief under the retroactive provisions of Amendment 821 to decide whether to assume representation of the defendant. The court should not take any

action on the defendant's *pro se* filing until either the twenty-eight (28) days expire or the parties file a status report, motion, or stipulation, whichever is earlier.

In accordance with the policy of the Federal Bureau of Prisons, no Presentence Investigation Reports, Modified Presentence Investigation Reports, or Statements of Reasons shall be provided to inmates.

Any attorney receiving any documents from the defendants' case file that are not otherwise publicly available through PACER shall not distribute such documents, unless otherwise ordered by the court.

Dated: October 31, 2023.

FOR THE COURT:



CHIEF UNITED STATES DISTRICT JUDGE