

September 21, 2023

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION**BY: Toni Appelt
DEPUTY**In re: Potential Sentence
Reductions Under 18 U.S.C. § 3582(c)
Due to Retroactive Criminal History
Guidelines Amendment****STANDING APPOINTMENT ORDER**

Before the Court is the Sentencing Commission's retroactive application of Parts A and B, Subpart 1, of Amendment 821. *See* U.S.S.G. App. C., amend. No. 825; U.S.S.G. §1B1.10, p.s. (eff. Nov. 1, 2023). Part A of the amendment addresses guideline §4A1.1 status points, decreasing them by one point for individuals with seven or more criminal history points and eliminating status points for those with six or fewer criminal history points. Subpart 1 of Part B creates a new §4C1.1 guideline that provides a decrease of two offense levels for "Zero-Point Offenders" (no criminal history points) whose offense did not involve specified aggravating factors.

In the interest of applying the retroactive amendment fairly, expeditiously, and without undue expenditure of judicial resources, the Court has decided to appoint the Federal Public Defender's Office to represent any defendant potentially eligible for a reduced sentence because of this retroactive amendment. Such appointment does not extend to cases of conflict, to defendants not eligible for appointed counsel under 18 U.S.C. § 3006A, or to cases where other counsel has already been appointed or retained. The appointment will terminate upon the district court's ruling or the conclusion of the appellate process, unless otherwise ordered by the Court.

Accordingly, it is hereby ORDERED that the Federal Public Defender is appointed to represent any defendant potentially eligible for a reduction of sentence under 18 U.S.C. § 3582(c) based on the reduction authorized by Parts A and B, Subpart 1, of Guideline

Amendment No. 821 and Policy Statement §1B1.10. This Order does not extend to a defendant (1) who has retained counsel or had other counsel appointed to pursue the reduction, (2) who is not financially eligible for appointment of counsel under 18 U.S.C. § 3006A, or (3) whose case presents a conflict preventing the Federal Public Defender from acting on the defendant's behalf.

The Probation Office is authorized to disclose the defendant's Presentence Investigation Reports, Judgments, and Statements of Reasons to the Federal Public Defender's Office and the U.S. Attorney's Office.

The Office of the Clerk of Court for the Western District of Texas ("Clerk's Office") is authorized to disclose to the Federal Public Defender's Office and the U.S. Attorney's Office, documents from the defendant's case file that are not otherwise available through the judiciary's Public Access to Court Electronic Records ("PACER") service to determine the defendant's eligibility, the extent for relief, and conflicts. Specifically, the Clerk's Office may disclose U.S.S.G. §5K1.1 motions and orders, motions and orders related to Rule 35 of the Federal Rules of Criminal Procedure, plea agreements, charging documents, notices of enhancement under 18 U.S.C. § 851, verdicts, and motions under 28 U.S.C. § 2255. The Federal Public Defender's Office may not disclose these materials except to subsequently appointed counsel, unless otherwise ordered by the Court.

It is so **ORDERED**.

SIGNED this 21st day of September, 2023.

A handwritten signature in black ink, appearing to read "David Counts", with a stylized star or asterisk symbol to the right of the name.

DAVID COUNTS
UNITED STATES DISTRICT JUDGE