UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

General Order 2016-12

IN RE: REQUESTS FOR RELIEF IN LIGHT OF *Johnson v. United States*, 135 S. Ct. 2551 (June 26, 2015), WHICH WAS MADE RETROACTIVE BY THE UNITED STATES SUPREME COURT IN *Welch v. United States*, 136 S. Ct. 1257 (2016)

STANDARD PROCEDURAL ORDER

This Standard Procedural Order governs requests for relief in light of *Johnson v. United States*, 135 S. Ct. 2551 (2015), which was made retroactive by the United States Supreme Court in *Welch v. United States*, 136 S. Ct. 1257 (2016).

By Administrative Order dated May 6, 2016, the Office of the Federal Public Defender for the Middle and Western Districts of Louisiana ("FPD") was appointed to represent any defendant who is now indigent and who has been identified as possibly qualifying for federal habeas relief in light of *Johnson*. As a result of this appointment, the FPD reviewed over 60 criminal cases arising from the United States District Court for the Middle District of Louisiana in which the defendant was potentially eligible for relief under *Johnson*. Based on this review, the FPD filed, by the June 27, 2016 *Johnson* filing deadline, a number of initial Section 2255 motions in the Middle District of Louisiana, as well as requests in the United States Court of Appeals for the Fifth Circuit seeking authorization to file successive Section 2255 motions for defendants who were potentially eligible for relief under *Johnson* and who had not filed for such relief *pro se*. With respect to the *pro se* defendants who filed for relief under *Johnson*, the FPD has reviewed those cases and is monitoring them for the purpose of enrolling and filing supplemental pleadings as appropriate.

Beginning in July 2016, representatives of the FPD and the U.S. Attorney's Office began meeting in an effort to identify and review all cases, whether *pro se* or represented by the FPD, in which filings were made in the Middle District of Louisiana requesting relief under *Johnson*. The FPD and the U.S. Attorney's Office seek to determine which requests for relief can be resolved by a proposed

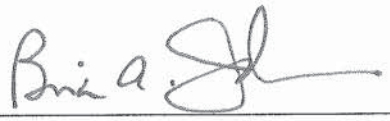
agreement of the parties, which requests will require litigation and which requests should await further guidance from the Fifth Circuit or the Supreme Court before being resolved by agreement or litigation. It is expected that this review process, which is on-going and will involve consultation with representatives of the U.S. Probation Office, will take several months.

Accordingly,

IT IS ORDERED that a *Johnson* Review Committee is hereby formed, consisting of representatives of the FPD, the U.S. Attorney's Office and the U.S. Probation Office, in order to continue the process of identifying and reviewing all criminal cases with filings in the United States District Court for the Middle District of Louisiana requesting relief under *Johnson* and to make recommendations to the Court regarding the proper resolution of the filings.

IT IS FURTHER ORDERED that, with respect to all criminal cases with filings requesting relief under *Johnson*, the deadlines for filing supplements, amendments, responses or answers to the filings, as well as the Court's decisions on all requests, are hereby **STAYED** until October 31, 2016, or until the FPD and the U.S. Attorney's Office have notified the presiding judicial officials of their agreed upon recommendations for the resolution of the filings in particular cases, whichever is sooner.

Baton Rouge, Louisiana, this 7th day of September, 2016.



BRIAN A. JACKSON, CHIEF JUDGE
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA