U.S. DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA
FILED AUG 26 2011
CLERK'S OFFICE

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

GENERAL ORDER

NUMBER: 2011: 07

Cocaine Base - Retroactive Amendment Procedures

Below are the procedures the U.S. District Court for the Middle District of Louisiana will employ to address the issues presented by Amendment #750 to the U.S. Sentencing Guidelines, lowering the guideline range for certain categories of offenses involving cocaine base. These procedures pertain to motions or actions filed for reductions of sentence, pursuant to 18 USC § 3582(c)(2) or as otherwise determined by the Court.

I. CASES IDENTIFIED

Potentially impacted cases for sentence reduction have been identified by the U.S. Sentencing Commission, Administrative Office of the U.S. Courts, and by search of the presentence database of the U.S. Probation Office (USPO), Middle District of Louisiana. The procedure for addressing those cases is set forth in Section II below.

II. CASES IDENTIFIED BY THE U.S. SENTENCING COMMISSION / ADMINISTRATIVE OFFICE / U.S. PROBATION OFFICE DATABASE

The Court enters its own Motion to Consider Reduction of Sentence at the time this General Order is filed. Notice of Motion will be filed in the record and served on all parties. The probation office is authorized to review all cases in this district identified by the U.S. Sentencing Commission, Administrative Office of the U.S. Courts, or the Middle Louisiana U.S. Probation Office database, as potentially impacted by the crack cocaine amendment. The Probation Office will make one of the following recommendations:

A. If the probation office concludes the defendant does not qualify for a reduction, it will submit a report to the presiding judge indicating its recommendation. Copies will be sent to all attorneys. Counsel shall have twenty (20) days from the date of disclosure to submit objections to the Court. Objections shall be submitted directly to the presiding judge with simultaneous confidential copies to all parties, including the probation office. Objections shall be limited to the defendant's eligibility to be considered for a reduction of sentence under the crack cocaine amendment. All other objections will not be considered by the Court.

B. If the probation office concludes the defendant potentially qualifies for a reduction, the probation office will issue a sentencing report to the Court and properly notice the disclosure of that report to defense counsel and the government, in compliance within the time requirements of Rule 45, Federal Rules of Criminal Procedure.

III. CASES POTENTIALLY IMPACTED BY CRACK COCAINE AMENDMENT

The Court shall have the discretion to apply the crack cocaine amendment retroactively to the sentence. Whether identified by the U.S. Sentencing Commission, Administrative Office of the U.S. Courts, or by search of the presentence database of the U.S. Probation Office, Middle District of Louisiana, the following applies to those cases potentially impacted by the crack cocaine sentencing guideline amendment, including those cases deemed inappropriate for the guideline reduction.

A. The Court appoints Rebecca Hudsmith, Federal Public Defender, to represent these defendants. In the event of a conflict, the Court authorizes appointment of counsel from the CJA panel members.

IV. MOTIONS BY COUNSEL OR PRO SE

Cases may also be brought before the court on a pro se motion or motion of counsel. When a motion to reduce sentence is filed pro se or by counsel, the clerk's office will docket the motion and refer the matter to the U.S. Probation Office to make a preliminary determination as to whether the case potentially qualifies for a sentencing reduction under the crack cocaine amendment. The probation office will make one of the following recommendations to the presiding judge:

A. If the probation office concludes the defendant does not qualify for a reduction, it will submit a report to the presiding judge indicating its recommendation. Copies will be sent to all attorneys. Counsel shall have twenty (20) days from the date of disclosure to submit objections to the Court. Objections shall be submitted directly to the presiding judge with simultaneous confidential copies to all parties, including the probation office. Objections shall be limited to the defendant's eligibility to be considered for a reduction of sentence under the crack cocaine amendment. All other objections will not be considered by the Court.

B. If the probation office concludes the defendant potentially qualifies for a reduction, the probation office will issue a sentencing report to the Court and properly notice the disclosure of that report to defense counsel and the government, in compliance within the time requirements of Rule 45, Federal Criminal Rules of Procedure.

V. SCHEDULING ORDER

For those cases identified as being potentially impacted by the crack cocaine sentencing amendment, the following scheduling order is issued:

A. THE USPO SENTENCING REPORT: The date by which the probation officer shall provide the USPO Sentencing Report will be determined by the possible release date of each defendant identified as eligible for reduction.

B. SENTENCING MEMORANDUM: The parties may submit sentencing memorandum in support of their position. The memorandum shall be submitted to the Court no later than 45 days after the date of the USPO Sentencing Report.

C. HEARING REQUESTS: The scheduling order would require counsel to consult regarding whether the matter can be resolved based on the pleadings submitted or whether a hearing is necessary to resolve the issue. Any counsel requesting a hearing shall indicate, in a separately headed section of their sentencing memorandum, the factual and legal basis for the hearing request and, if defendant's presence is requested, the factual and legal basis for that request. No hearings will be granted unless specifically authorized by the presiding judge in the matter.

It is so ordered

Baton Rouge, Louisiana, this 26th day of August, 2011

BRIAN A. JACKSON, CHIEF JUDGE
MIDDLE DISTRICT OF LOUISIANA

JAMES J. BRADY
UNITED STATES DISTRICT JUDGE

FRANK J. POLOZOLA
UNITED STATES DISTRICT JUDGE