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U.S. DIST. COURT
MIDDLE DIST. OF LA
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UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

GENERAL ORDER

NUMBER: 2014: 10

Retroactive Application of the 2014 Drug Guidelines Amendment

Below are the procedures the U.S. District Court for the Middle District of Louisiana will employ to address the issues presented by Amendment #782 to the U.S. Sentencing Guidelines, lowering the guideline range by two levels to incorporate the statutory mandatory minimum penalties for drug trafficking offenses in USSG §§ 2D1.1 and 2D1.11. These procedures pertain to motions or actions filed for reductions of sentence, pursuant to 18 U.S.C. § 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, the 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 District of Louisiana U.S. Probation Office database, as potentially impacted by Amendment 782. The probation office will make one of the following determinations:

A. If the probation office concludes the defendant does not qualify for the reduction, it will submit an USPO Sentencing Report to the presiding judge indicating its determination. Copies will be made available to counsel through CM/ECF at the time of the disclosure of said report. Counsel shall have up to thirty (30) 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 Amendment 782. 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 an USPO Sentencing Report to the Court. Copies will be made available to counsel through CM/ECF at the time of disclosure of said report, in compliance with the time requirements of Rule 45, Federal Rules of Criminal Procedure.

III. CASES POTENTIALLY IMPACTED BY AMENDMENT 782

The Court shall have the discretion to apply Amendment 782 retroactively to the sentence. Whether identified by the U.S. Sentencing Commission, the 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 Amendment 782, 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 of Court'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 Amendment 782. The probation office will make one of the following determinations to the presiding judge:

A. If the probation office concludes the defendant does not qualify for the reduction, it will submit an USPO Sentencing Report to the presiding judge indicating its determination. Copies will be made available to counsel through CM/ECF at the time of the disclosure of this report. Counsel shall have up to thirty (30) 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 Amendment 782. 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 an USPO Sentencing Report to the Court. Copies will be made available to counsel through CM/ECF at the time of disclosure of said report, in compliance with the time requirements of Rule 45, Federal Rules of Criminal Procedure.

V. SCHEDULING ORDER

For those cases identified as being potentially impacted by Amendment 782, the following scheduling order is issued:

A. THE USPO SENTENCING REPORT: The date by which the probation office shall provide the USPO Sentencing Report will be determined by the possible release date of each defendant identified as eligible for reduction. The USPO shall make the original Presentence Investigation Report and Addendum available to counsel through CM/ECF at the time of the disclosure of the USPO Sentencing Report.

B. SENTENCING MEMORANDUM: The parties may submit sentencing memorandum in support of their position. The memorandum shall be submitted to the Court simultaneously with their objections.

C. HEARING REQUESTS: The scheduling order would require counsel to consult with each other 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 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 1st day of December, 2014

BRIAN A. JACKSON
CHIEF U.S. DISTRICT JUDGE

SHELLY D. DICK
U.S. DISTRICT JUDGE

JOHN W. DEGRAVELLES
U.S. DISTRICT JUDGE

JAMES J. BRADY
U.S. DISTRICT JUDGE