

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

IN RE: 2023 AMENDMENT OF
UNITED STATES SENTENCING
GUIDELINES §§ 1B1.13 and 1B1.10

GENERAL ORDER NO. 431

Before the Court is the Sentencing Commission’s retroactive application of Guideline Amendment 821 Part A and Part B Subpart 1. *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. Part B Subpart 1 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.

The Court hereby appoints the Federal Defender Services of Idaho to represent any defendant potentially eligible for a reduction of sentence based on Guideline Amendment 821 Part A and Part B Subpart 1, and Policy Statement § 1B1.10, under 18 U.S.C. § 3582(c). This appointment arises under the Criminal Justice Act, specifically 18 U.S.C. § 3006A(a)(1) and (c), and is in the interest of applying the retroactive amendment fairly, expeditiously, and without undue expenditure of judicial resources. 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.

To the extent it is determined that the defendant may qualify for relief, the Office of the Federal Public Defender is also appointed to file the appropriate motion for relief.

The United States Probation Office for the District of Idaho is authorized to disclose Presentence Investigation Reports, Statement of Reasons, and Judgments to the Office of the Federal Public Defender and the United States Attorney's Office for the purpose of determining a defendant's eligibility for relief under the amendments to the United States Sentencing Guidelines referenced in this Order. The Office of the Federal Public Defender shall provide the Presentence Investigation Report, Statement of Reasons, and Judgment to any subsequently appointed or retained counsel. In accordance with the policy of the Federal Bureau of Prisons, no Presentence Investigation Reports or Statements of Reasons shall be provided to inmates.

The Office of the Clerk of Court for the District of Idaho is authorized to disclose to the Office of the Federal Public Defender, appointed counsel, 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 of relief, and any 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 21 U.S.C. § 851, transcripts available pursuant to Judicial Conference policy, verdicts, and motions under 28 U.S.C. § 2255. The Office of the

Federal Public Defender may not disclose these materials except to subsequently appointed counsel, unless otherwise ordered by the Court. Subsequently appointed or retained counsel may not further distribute such documents, unless otherwise ordered by the Court.

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



DATED: November 1, 2023



David C. Nye
Chief U.S. District Court Judge