

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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In re RETROACTIVE APPLICATION OF
AMENDMENT 821 U.S. SENTENCING
GUIDELINES MANUAL

**ADMINISTRATIVE ORDER
NO. 2023-31**

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Pursuant to the provisions of the Criminal Justice Act, Title 18, U.S.C. § 3006A(a)(1) and (c), the Federal Defenders of New York (“Federal Defenders”) is hereby appointed to represent any defendant previously determined to have been entitled to appointment of counsel, or who previously was represented by retained counsel and presently is indigent, to determine whether that defendant may qualify to seek reduction of sentence and to present any motions or applications for reduction of sentence in accordance with Amendment 821 of the U.S. Sentencing Guidelines Manual. In addition, should the Federal Defenders determine that there is a conflict with regard to the representation of a particular defendant, the assigned district judge or the on-duty magistrate judge is authorized to appoint a member of the Criminal Justice Act (“CJA”) panel to represent that defendant. CJA panel attorneys who previously were appointed to represent defendants may, upon the CJA attorney’s request, resume their appointment to investigate and pursue any similar claims for their clients.

The United States Probation Office (“the Probation Office”) and the United States District Court Clerk’s Office for the Eastern District of New York (“the Clerk’s Office”) are authorized to disclose Presentence Investigation Reports, Judgments (including sealed judgments), and Statements of Reasons to the Federal Defenders and the United States Attorney’s Office for the purpose of determining eligibility for relief. The Clerk’s Office is further authorized to disclose to the Federal Defenders motions for downward departures based on substantial assistance for any defendant the Federal Defenders represented at the time of the original sentencing. If such a motion was filed under seal and the defendant was not previously represented by the Federal Defenders, the Clerk’s Office shall instead disclose the motion to the United States Attorney’s Office. Otherwise, applications for access to sealed documents for the purpose of determining whether to file, or filing, a motion on behalf of the defendant seeking relief under Amendment 821 for reduction of sentence are to be directed to the assigned district judge. Any sealed document provided to defense counsel by the Probation Office, Clerk’s Office, or United States Attorney’s Office pursuant to this Administrative Order shall be maintained under seal and shall not be used or disclosed for any purpose other than to determine a defendant’s eligibility to seek a reduction of sentence or present any motions or applications for reduction of sentence in accordance with Amendment 821, or to determine whether there exists any conflict in representation.

The Clerk’s Office shall promptly notify Federal Defenders and the assigned district judge of all *pro se* motions seeking or appearing to seek relief under Amendment 821. If the Probation Office receives or otherwise becomes aware of any such pending motions, that Office similarly shall so advise Federal Defenders and the assigned district judge.

In the event that the sentencing judge in the original proceeding is no longer a member of the Bench of this District, the case shall be reassigned on a random basis.

Dated: November 1, 2023
Brooklyn, New York

SO ORDERED:

s/ MKB

MARGO K. BRODIE
Chief United States District Judge