

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY

GENERAL ORDER NO. 2011-04

IN RE: RETROACTIVE APPLICATION OF CRACK COCAINE AMENDMENT TO
FEDERAL SENTENCING GUIDELINES IMPLEMENTING THE FAIR
SENTENCING ACT OF 2010

This Court has established a procedure to review sentences of currently-incarcerated individuals that may be subject to reduction in accordance with 18 USC § 3582(c)(2) and the guidance provided in Section 1B1.10 of the sentencing guidelines. The procedures are more particularly described in Addendum A to this Order.

The Court will begin review with those cases closest to release or eligibility for release, assuming they otherwise meet the consideration criteria. As a first step, the Probation Office will review each case which the guidelines amendments may affect. Probation shall prepare an analysis of the amendment's impact and a recommended reduced sentence, if appropriate.

The appropriate judge will review, approve, or revise each recommendation. After that review, the Clerk of Court will assure appointment of counsel for every defendant. The Court will forward the probation analysis and the Court's recommendations to all counsel.

After such notice, each party will have 30 days to file objections or to request a hearing. If objections are filed, the Court may schedule a hearing. If no objections are filed, the Court will enter an appropriate amended judgment for the recommended sentence. No action will be effective prior to November 1, 2011.

IT IS SO ORDERED this 12 day of August 2011.

ENTERED

AUG 12 2011

WARRISSA L. ARMSTRONG
BY [Signature]
DEPUTY CLERK

[Signature]
THOMAS B. RUSSELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY

ADDENDUM A

WESTERN DISTRICT OF KENTUCKY CRACK COCAINE SENTENCE REVIEW PROCESS (FAIR SENTENCING ACT)

- (A) The Court will enter General Order (see attached) describing the procedure for addressing the crack cocaine amendment.
- (B) The Probation Office will review the list of potentially eligible defendants; and, starting with those cases closest to release or eligibility for release, prepare a recalculation memorandum. The memorandum will attempt to address all issues relevant to a possible reduction under the new amended guideline, implementing the Fair Sentencing Act.
- (C) Probation will provide the original sentencing judge with the memorandum containing the recalculation along with the original presentence report and the original Judgment for review and consideration.
- (D) The Memorandum of Recalculation will contain a recommended sentence, given the revised range to the Court. The Court will, after review of the documents, return the memorandum to the probation office with comments or changes to the recommended sentence. The probation office will make any recommended changes.
- (E) The Clerk of Court will make certain that each defendant is represented by counsel, either by assignment of the Federal Defender, a panel attorney or retained counsel.
- (F) The Clerk of Court will forward the Memorandum of Recalculation, with a copy of the original presentence report and Judgment, to the defendant, defendant's counsel, and the United States Attorney's Office. The parties would have 30 days from receipt to file any objections or a request for a hearing.
- (G) Should the parties file objections, the Court may schedule hearings to resolve the matters at issue.
- (H) If no objections are filed within the allotted time, the Court would go forward with entering an appropriate amended Judgment for the recommended sentence.
- (I) These procedures do not in any manner presuppose the result of an individual case nor are they intended to restrict any argument of counsel or the discretion of any judge.