

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY**

**GENERAL ORDER NO. 2014-12**

**IN RE:       RETROACTIVE APPLICATION OF AMENDMENT 782 TO  
              FEDERAL SENTENCING GUIDELINES**

In anticipation of the retroactive application of Amendment 782 to the United States Sentencing Guidelines, the Court has established procedures to review the sentences of currently incarcerated individuals that the United States Sentencing Commission (USSC) has identified as potentially eligible for a reduction in sentence reduction in accordance with 18 U.S.C. § 3582(c)(2) and the guidance provided in Sections 2D1.1 and 2D1.11 of the U.S. Sentencing Commission, Guidelines Manual. These procedures are more particularly described in Addendum A to this Order.

The Court will review the list of potentially eligible defendants provided to it by the USSC beginning with the cases of those defendants closest to release or eligibility for release, assuming they otherwise meet the consideration criteria. Any motion filed by any defendant who is on the USSC's list shall have that motion denied as moot as the Court will on its own initiative consider whether such defendant is eligible for a reduced sentence in accordance with the procedure set forth in this General Order.

The U.S. Probation Office shall prepare an analysis of the amendment's impact and a recommended reduced sentence, if appropriate. The Court will review, approve, or revise each recommendation from the U.S. Probation Office.


If the U.S. Probation Office recommends a reduction in sentence, it shall electronically file and transmit the recommendation to the United States Attorney's Office through the Court's Case Management/Electronic Case Filing System (CM/ECF). The Court shall thereupon enter a text-only order directing the United States to file its response to the recommendation within twenty (20) days from the date the recommendation is filed.

Unless the United States timely files a written objection, the Court will enter an order reducing the sentence accordingly. Should the United States timely file an objection, the Court shall enter a text-only order appointing the defendant counsel to respond to the objection within thirty (30) days from the date of the appointment and shall forward the U.S. Probation Office's recommendation to appointed counsel through CM/ECF.

If, after review, the U.S. Probation Office's recommendation is to deny a reduction in sentence, the Court will enter a text-only order appointing the defendant counsel and directing the U.S. Probation Office to electronically file and transmit its recommendation to all counsel electronically through CM/ECF. Unless a party files a written objection within thirty (30) days from date the recommendation is filed, the Court will enter an order denying a sentence reduction.

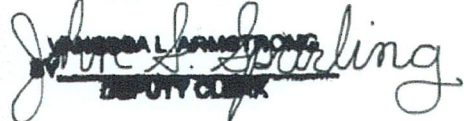
No action will be effective prior to November 1, 2015.

IT IS SO ORDERED this 10<sup>th</sup> day of September, 2014.

  
JOSEPH H. MCKINLEY, JR., CHIEF JUDGE  
UNITED STATES DISTRICT COURT

**ENTERED**

SEP 10 2014

  
VANESSA L. ARMSTRONG  
DEPUTY CLERK

## ADDENDUM A

### WESTERN DISTRICT OF KENTUCKY PROCEDURE FOR THE RETROACTIVE APPLICATION OF AMENDMENT 782 TO THE UNITED STATES SENTENCING COMMISSION GUIDELINES

1. The U.S. Probation Office will review the list of potentially eligible defendants provided to it by the United States Sentencing Commission (USSC).
2. Starting with those cases closest to release or eligibility for release, Probation shall prepare a memorandum that will attempt to address all issues relevant to a possible sentence reduction under the amended guidelines and that contains either the recommended recalculated sentence or a recommendation that the defendant is ineligible for a reduced sentence.
3. Probation will provide the original sentencing judge or, if not available, the judge to whom the case has been reassigned with a hard-copy of the above-referenced memorandum along with the original presentence report, the original judgment, the original statement of reasons, and, if applicable, any previously filed memorandum of recalculation and previously entered order reducing sentence. Should Probation recommend that a defendant be granted a sentence reduction, it shall additionally provide the judge with a copy of the post-conviction conduct report.
4. The Court will review, approve, or revise each recommendation from Probation.
5. If Probation recommends, and the Court agrees, that a defendant's sentence should be reduced, Probation shall electronically file and transmit the recommendation to the United States Attorney's Office through the Court's Case Management/Electronic Case Filing System (CM/ECF). The Court shall thereupon enter a text-only order directing the United States to file its response to the recommendation within twenty (20) days from the date the recommendation is filed.
6. Unless the United States files a written objection within twenty (20) days from date the recommendation is filed, the Court will enter an order reducing the sentence accordingly.
7. If the United States timely files a written objection, the Court shall enter a text-only order that:
  - a. Appoints the defendant counsel to respond to the objection,
  - b. Directs the Clerk to grant appointed counsel access in CM/ECF to all of the documents noted in 3. above, allowing appointed counsel to view such documents electronically, and
  - c. Directs defense counsel to file its response to the objection within thirty (30) days from the date of the order.

8. If Probation recommends, and the Court agrees, that a defendant should be denied a reduction in sentence, the Court shall enter a text-only order that:

- a. Appoints the defendant counsel,
- b. Directs Probation to file the documents noted in 3. above in the Court's CM/ECF system and grant access to all counsel allowing them to view such documents electronically through CM/ECF, and
- c. Directs all counsel to file a written objection within twenty (20) days from date the recommendation is filed.

The court will consider any timely filed objections and enter an order as appropriate. Should no objection be timely filed, the Court will enter an order denying a sentence reduction.

9. 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.