

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE**

<p>FILED CLERK'S OFFICE United States District Court Eastern District of Tennessee Date: Feb 28, 2024, 2:47 pm</p>
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IN RE:)
) No: SO-24-05
)
Amendment 821 to USSG Appendix C of)
2023)
)

AMENDED STANDING ORDER

This amended standing order abrogates SO-23-06 in its entirety. On November 1, 2023, Amendment 821 to Appendix C of the United States Sentencing Commission Guidelines Manual (“Amendment 821”) became effective. Part A of the amendment decreases status points by one point for individuals with seven or more criminal history points and eliminates status points for those with six or fewer criminal history points. Subpart 1 of Part B creates a new §4C1.1 guideline that decreases two offense levels for “Zero-Point Offenders” (no criminal history points) whose offense did not involve specified aggravating factors. Amendment 821 will be given retroactive effect; however, any reduction in the term of imprisonment based on retroactive application of Amendment 821 will not be effective until February 1, 2024. Accordingly, as of November 1, 2023, the Court is authorized to reduce sentences pursuant to 18 U.S.C. §3582(c)(2) based on the retroactive application of Amendment 821, provided that any order reducing a term of imprisonment has an effective date of February 1, 2024, or later.

Because of the need to efficiently process motions pursuant to Amendment 821, the Court **DIRECTS** the Federal Defender Services of Eastern Tennessee (“FDSET”) to coordinate with the Court, the United States Probation Office (“USPO”), and the United States Attorney’s Office (“USAO”) to identify cases that may be affected by Amendment 821. The Court further

DIRECTS FDSET to evaluate all such cases and maintain a list of the cases evaluated. If FDSET determines a defendant may qualify for relief under Amendment 821, the Court hereby **APPOINTS** FDSET to represent that defendant and file a motion on the defendant's behalf. FDSET shall identify any conflicts of interest and shall notify the Court of the conflict and the identity of an attorney from a special panel of attorneys qualified to handle Amendment 821 matters so that the identified counsel can be appointed by the Court. Any defendant not previously represented by FDSET or the appointed counsel will need to complete an *in forma pauperis* application.

In cases where a *pro se* motion requesting relief under Amendment 821 is filed, the Court **DIRECTS** FDSET to evaluate the defendant's motion. If FDSET identifies a conflict of interest in the course of its review, it shall notify the Court of the conflict and the identity of an attorney from a special panel of attorneys qualified to handle Amendment 821 matters so that the identified counsel can be appointed by the Court. If FDSET or the appointed counsel determines that the defendant may qualify for relief under Amendment 821, FDSET or the appointed counsel shall file a supplemental motion without delay. If FDSET or the appointed counsel determines that it will not file a supplemental motion in any case evaluated pursuant to this Order, FDSET or the appointed counsel shall file a notice of no intention to file a supplemental motion. FDSET or the appointed counsel shall also notify the defendant that it will not file a supplemental motion. Any motion, supplemental motion, or reply filed by counsel that contains medical information, information concerning a departure under the sentencing guidelines, or information concerning a previously-ordered sentencing reduction may be filed under seal without further need for leave of court. Likewise, any response filed by the Government that references medical information, information concerning a departure under the sentencing


guidelines, or information concerning a previously-ordered sentencing reduction may be filed under seal without further need for leave of court.

USAO shall **RESPOND** to motions filed pursuant to Amendment 821 within 45 days (a) after the motion is filed, or (b) in the case of a *pro se* motion, after the supplemental motion or notice of no intention is filed. However, if FDSET or other counsel states in the motion or supplemental motion that the defendant is potentially eligible for immediate release, then USAO shall **RESPOND** within 14 days (a) after the motion is filed, or (b) in the case of a *pro se* motion, after the supplemental motion is filed. In addition, USAO shall promptly notify FDSET of *pro se* filings seeking relief under Amendment 821 and maintain a list of such filings so FDSET can satisfy its obligations under this Order.

The Court **AUTHORIZES** USPO to disclose to FDSET a complete list generated by USPO's PACTS database of all defendants potentially impacted by Amendment 821. The Court further **AUTHORIZES** USPO to disclose any relevant information to FDSET, including, but not limited to, presentence investigation reports and statements of reasons. For cases involving appointed CJA counsel or retained counsel, the Court **AUTHORIZES** USPO to disclose to appointed counsel or retained counsel presentence investigation reports, statements of reasons, and other relevant information upon entry of a notice of appearance or order of appointment.

The Court encourages USPO, FDSET, and USAO to assist the Court in identifying any cases deserving of priority treatment, especially those defendants who may be eligible for immediate release.

SO ORDERED.



TRAVIS R. MCDONOUGH
CHIEF UNITED STATES DISTRICT JUDGE