

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE

IN RE:

SESSIONS v. DIMAYA CASES

)
)
)

SO-18-05

FILED

CLERK'S OFFICE
United States District Court
Eastern District of Tennessee
Date: **Oct 26, 2018, 3:16 pm**

STANDING ORDER

In *Sessions v. Dimaya*, – U.S. –, 138 S. Ct. 1204 (2018), the Supreme Court held that the residual clause of the crime-of-violence definition in Title 18 United States Code section 16, which is cross-referenced in the Immigration and Nationality Act's (INA) definition of aggravated felony, is unconstitutionally vague. *Id.* at 1223. Accordingly, defendants whose convictions or sentences rest upon section 16(b) may be eligible for relief.

Because of the need to efficiently process petitions under *Dimaya*, the Court **DIRECTS** Federal Defender Services of Eastern Tennessee ("FDSET") to coordinate with the Court, the United States Probation Office, and the United States Attorney's Office ("USAO") to identify cases that may be affected by *Dimaya*. 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 28 U.S.C. § 2255, then FDSET is hereby **APPOINTED** to represent that defendant and shall file a petition on the defendant's behalf. FDSET shall identify any conflicts of interest and notify the Court so that other counsel can be appointed. Any defendant not previously represented by FDSET or a CJA attorney will need to complete an *in forma pauperis* application. If FDSET determines that it will not file a § 2255 petition in any case evaluated pursuant to this Order, FDSET shall file a notice of no intention to file a motion for relief pursuant to *Dimaya*.

If FDSET or another attorney appointed pursuant to this Order files a § 2255 petition based

on *Dimaya*, the USAO shall respond within 45 days. Pro se filings seeking relief based on *Dimaya* will be handled in the regular course and according to applicable procedural rules. The USAO shall promptly notify FDSET of pro se filings seeking relief under *Dimaya* and maintain a list of such filings, so FDSET can satisfy its obligations under this Order.

The United States Probation Office is **AUTHORIZED** to disclose relevant information to FDSET, including the identities of defendants it has identified as being potentially affected by *Dimaya* and presentence investigation reports. The Probation Office, FDSET, and the USAO are encouraged to assist the Court in identifying any cases deserving of priority treatment.

ENTER:

/s Thomas A. Varlan
Thomas A. Varlan
Chief United States District Judge