

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

In the matter of District Protocol for)
Processing Applications under) General Order No. 642
Guidelines Amendment 782)
_____)

The U.S. Sentencing Commission’s two-point reduction to the offense levels of the U.S.S.G. § 2D1.1(c) Drug Quantity Table in Amendment 782 (Nov. 1, 2014) was made retroactively applicable by Amendment 788 (Nov. 1, 2014). As the Commission estimates that several hundred already-sentenced defendants in this District may qualify for a reduced sentence under the retroactive changes to offense levels, standard procedures are necessary for processing the expected large number of applications for resentencing under 18 U.S.C. § 3582(c) and U.S.S.G. § 1B1.10. Following consultation between the Court, the U.S. Attorney, U.S. Probation, the defense bar, and the Court Clerk, the Court adopts the following protocol for implementing Amendments 782/788.

1. Intake and Identification of Candidates for Reduction. The Court appoints Federal Defenders of San Diego, Inc. (FDSDI) to represent initially all potentially eligible candidates sentenced in the Southern District of California. FDSDI will maintain a central, master-list database of potential candidates derived from multiple source lists (Sentencing Commission’s list of potentially eligible defendants and lists of defendants who have individually contacted the Court, the U.S. Attorney, U.S. Probation, FDSDI, or CJA panel members inquiring about eligibility for this reduction). FDSDI will review the master

list for facially ineligible cases and then contact the remaining candidates to inform them of the Amendment 782 process in the District and to solicit additional information to conduct initial screening. The intake packet to be returned by defendants will include an advisal and waiver of conflict with FDSDI for the limited purposes of conducting a screening for eligibility and possibly entering into a joint recommendation for a reduction.

2. Initial Screening of Candidates. FDSDI will use information provided by the candidates in their intake packets and materials provided by Probation to conduct an initial screening for eligibility. Probation, as a centralized source, shall provide FDSDI and U.S. Attorney representatives, upon request, with sealed copies of the presentence reports, the parties' sentencing summary charts, and pages 1, 2 and 3 of the Statement of Reasons from sentencing for requested cases, as FDSDI identifies each lot of candidates. FDSDI will process first those individuals whose scheduled and revised release dates place them closest to the operative date of November 1, 2015, so that qualifying candidates obtain the full reduction due. FDSDI will notify those on the master list it determines are ineligible and advise those for whom a reduction would be disadvantageous overall.

3. Consultation and Review by U.S. Attorney and U.S. Probation. On a periodic basis to be determined by the representatives of each agency, FDSDI will transmit to the designated representatives of the U.S. Attorney and U.S. Probation a list of candidates it has determined to be eligible for retroactive reduction in the current lot of screened cases. The representatives of the U.S. Attorney and Probation will review the current tranche of candidates and classify them into three categories: (a) cases approved for joint

recommendation for reduction; (b) cases that are contested due to ineligibility or the ‘public safety’ considerations of U.S.S.G. § 1B1.10 cmt. n. 1(B)(ii); and (c) individuals who do not qualify for appointed counsel or have an unwaivable conflict with FSDSI.

4. Processing of Cases After Consultation and Review. All cases - joint recommendations and contested cases - will be assigned to the original sentencing judge for calendaring in due course. For those in the third category, FSDSI will contact the individuals and inform them of their options to proceed pro se, obtain alternative counsel (including panel members who volunteer for this purpose or to take conflict cases), or rely on a suggestion from the U.S. Attorney or *sua sponte* action of the Court in cases that would otherwise be jointly recommended for reduction. These cases will then be assigned and calendared accordingly.

(a) Cases qualifying for a joint recommendation after consultation and review will have a standard, joint motion filed after notices of appearance have been filed in those cases. The standard motion must set out the information required to enter a reduced sentence, including the original sentence and Guidelines range, the basis for qualification under Amendment 782, and the new Guidelines calculation and sentence to be entered by application of the two-level reduction.

(b) Cases that have been placed on the contested track will be calendared for briefing and hearings as required to dispose of the matter. FSDSI will continue to represent candidates in contested cases, unless an unwaivable conflict or financial ineligibility requires FSDSI to withdraw from the case.

5. Disposition of Motions for Reduction. The assigned judge may summarily rule on the joint motion or order a hearing on it or a contested motion. If a motion for reduction is granted, the judge will enter a new judgment and commitment order in that case using form AO 247 and indicating the effective date of the order as **November 1, 2015**, if that date is later than the date of the entry of the order.

6. Timeline. The representatives will endeavor to complete screening, review, and filing of motions by **May 5, 2015**, for those cases where the projected, new release date coincides with the November 1, 2015 operative date. For cases where the projected, new release date falls later than the operative date, the representatives will prioritize cases with earlier release dates for processing, presenting them to the Court at appropriate intervals to permit entry of new judgments in all identified cases in due course. The goal is to have all new orders entered by the end of 2015.

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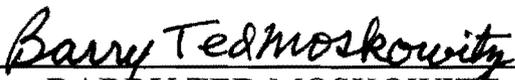
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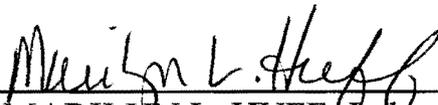
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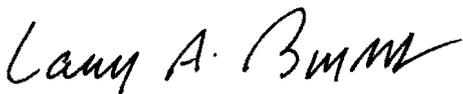
7. The Presentence Reports and Statement of Reasons forms provided to counsel may not be disclosed to anyone or used for any purpose other than investigating and handling motions for reduction of sentence under 18 U.S.C. § 3582(c) and U.S.S.G § 1B1.10.

IT IS SO ORDERED.

Dated: December 8, 2014

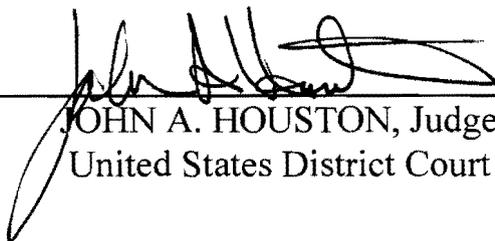

BARRY TED MOSKOWITZ,
Chief Judge
United States District Court


MARILYN L. HUFF, Judge
United States District Court


LARRY A. BURNS, Judge
United States District Court

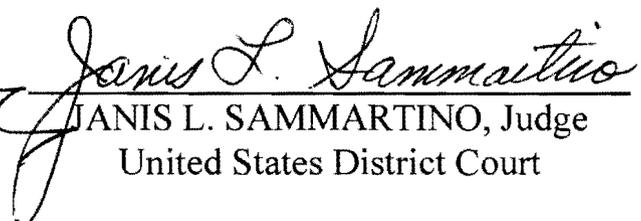

DANA M. SABRAW, Judge
United States District Court


WILLIAM Q. HAYES, Judge
United States District Court


JOHN A. HOUSTON, Judge
United States District Court



ROGER F. BENITEZ, Judge
United States District Court



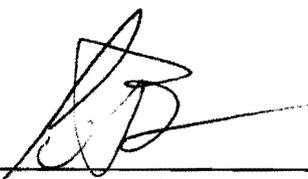
JANIS L. SAMMARTINO, Judge
United States District Court



MICHAEL M. ANELLO, Judge
United States District Court



ANTHONY J. BATTAGLIA, Judge
United States District Court



CATHY ANN BENCIVENGO, Judge
United States District Court



GONZALO P. CURIEL, Judge
United States District Court



CYNTHIA BASHANT, Judge
United States District Court

see attached

GORDON THOMPSON, Judge
United States District Court



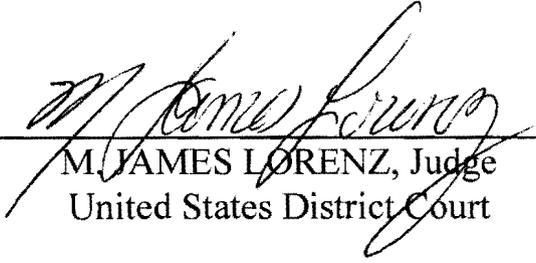
WILLIAM B. ENRIGHT, Judge
United States District Court



JEFFREY T. MILLER, Judge
United States District Court



THOMAS J. WHELAN, Judge
United States District Court



M. JAMES LORENZ, Judge
United States District Court

ROGER T. BENITEZ, Judge
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