

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

IN RE: PETITIONS FOR REDUCTION OF
SENTENCES UNDER RETROACTIVE
APPLICATION OF AMENDMENT 821
REGARDING CRIMINAL HISTORY

ADMINISTRATIVE ORDER 418

On April 27, 2023, the United States Sentencing Commission voted to (1) reduce by two levels the offense levels for offenders who did not receive any criminal history points under Chapter Four and whose instant offense did not involve specified aggravating factors; and (2) limit the overall impact of “status points” on certain offenders’ criminal history by amending USSG § 4A1.1 (Amendment 821); and

On August 24, 2023, the Commission voted to amend USSG § 1B1.10 to extend Amendment 821’s reductions retroactively to defendants who are serving a sentence, with a requirement that any such reduced sentence cannot take effect until February 1, 2024; and

Both amendments became effective November 1, 2023, and it is in the interest of efficient judicial administration for consistent procedures to be followed in the handling of requests seeking a reconsideration of a sentence pursuant to Amendment 821.

Therefore, it is ORDERED that the procedures listed below will apply to any such request filed with this Court.

1. It is ordered that the Federal Defender Office for the Western District of Wisconsin is appointed generally for all cases arising in this district where the defendant seeks the benefit of Amendment 821 under 18 U.S.C. § 3582(c)(2), if the defendant desires appointment of counsel and financially qualifies for such appointment. This order does not authorize the appointment of private counsel under the CJA.

2. It is ordered that the Probation Office, United States Attorney's Office, and the Federal Defender may, without further order of the Court, disclose to each other documents necessary for resolution of any motion in a case involving a request for relief under Amendment 821. Such documents may include: (1) pre-sentence investigation reports; (2) judgment and commitments; (3) statements of reasons; and (4) Bureau of Prison records. All other restrictions that normally apply to dissemination of any of these types of records remain in effect.

3. Representatives from the United States Attorney's Office and the Federal Defender shall confer to identify petitioners who may be eligible for sentence reconsideration. In cases where agreement is reached as to a specific modified sentence, the parties shall file a statement with the Court indicating the agreement of the parties. The United States Attorney's Office shall provide the Court the following information with any agreed motions for sentence reduction: The defendant's current term of imprisonment and projected release date, the total offense level, criminal history category, guideline range applicable to the defendant at the time of sentencing, and the total offense level and guideline range applicable to the defendant as a result of Amendment 821.

4. In cases in which there is not agreement, defense counsel may file documents as defense counsel deems appropriate, and counsel for the government will be given an opportunity to respond. The court will then take appropriate action.

5. The Clerk of Court is further directed to provide to the Federal Defender and the United States Attorney notice of each case or motion filed pro se that requests the benefit of Amendment 821, and to send a copy of this order to the pro se petitioner. The court will not take action on the pro se petition until the Federal Defender informs the court whether it will undertake representation of the pro se petitioner.

6. The Clerk of Court is directed to send copies of this order to the Federal Defender and the United States Attorney, and to post this order to the Court's website.

Entered November 8, 2023.

BY THE COURT:

/s/

JAMES D. PETERSON
Chief District Judge