

**Protocol for 3582(c) motions**

February 20, 2008

1. The Chief Federal Defender will send a letter to each District Judge listing defendants who might be eligible for release in the next 24 months, requesting the court to appoint FDO to represent each defendant. The United States Attorney does not oppose appointment of counsel in these cases.
2. FDO will obtain the judgment (with statement of reasons), presentence report, and plea agreement (if any) for each defendant for whom they are appointed.
3. FDO will notify the Deputy Chief Probation Officer, by e-mail when a file is opened for consideration of a motion under 18 U.S.C. § 3582(c).
4. An FDO or panel attorney ("FDO") will evaluate the file and consult with the client if necessary to decide whether they believe there is a basis for relief under § 3582(c). If so, FDO will provide the judgment, presentence report, and plea agreement to the U.S. Attorney's Office, together with its assessment of the basis for relief, and the parties will discuss whether they can stipulate that the defendant is eligible for retroactive application of the amended guideline range. If no stipulation is reached, FDO will file an appropriate motion and the U.S. Attorney's Office will file a response to the motion within ten days. The court will then schedule a hearing on the motion. If the court determines that the defendant is eligible for relief under § 3582(c), the case will be referred to the Probation Department, which will proceed in accordance with Paragraph 6 below.

5. If the U.S. Attorney and FDO agree that a defendant may be eligible for relief under § 3582(c), FDO will forward to the Probation Department the same package of material previously shared with the U.S. Attorney's Office.

6. The Probation Department will be assigning cases to probation officers on all offenders scheduled for release during the next 1-2 years. The probation officer may as part of that assignment review the Decision Tree to independently determine application of the crack cocaine retroactivity amendment in order to prioritize prerelease planning. When the Probation Department is requested by the Court or is notified by the FDO that there is agreement between the FDO and U.S. Attorney's Office that an offender may be eligible for relief, the Probation Officer assigned the case will provide a USSG 1B1.10 report for the Court, and will provide copies to FDO and U.S. Attorney's Office.

7. After reviewing all of the information provided, the court may deny relief, may enter an amended judgment which reduces the sentence, or may schedule a conference or hearing for counsel, as it deems necessary. When an amended Judgment (sample attached) is entered, the amended J & C, with the Statement of Reasons, must be prepared by the courtroom deputy and forwarded immediately (so the Bureau of Prisons knows to release the offender and the Probation Department is ready for the offender's release and arrival for supervision).

8. FDO will take responsibility for determining the priority and rank order scheduling of motions and stipulations to be filed based on projected eligibility for release. Accordingly, individual district judges should not schedule responses or resentencing dates until FDO has filed a motion or stipulation.

9. If defendants serving sentences mail letters directly to the clerk of the court making inquiries about filing motions under § 3582(c), the clerk's office will forward the letters to the

Deputy Chief Probation Officer, who will forward the letters to the Court and FDO. The FDO will contact the defendants to ask whether they wish to have counsel appointed. The Court may on its own motion begin the process to review a case for eligibility. However, the Court is encouraged to follow the protocols established in order for defendants immediately eligible or eligible within the first year may receive priority.

10. If a *pro se* motion for relief under § 3582(c) is served on the United States Attorney's Office, the U.S. Attorney will forward the motion to the Chief Federal Defender. FDO will then seek appointment of counsel for the defendant and amend the motion as appropriate, with the understanding that FDO will not act immediately on motions filed by defendants who are obviously not eligible for release in the next year. The U.S. Attorney's Office will not be required to respond to *pro se* motions until they have been reviewed and amended or adopted by appointed counsel.

11. The Court should consult with the FDO and U.S. Attorney prior to ordering a defendant to be produced for a hearing.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

#08-184

CT. ~~CK~~  
CK

CRACK  
RETROACTIVITY



DW  
A.W.

UNITED STATES OF AMERICA

v.

Case No: 93-50094-1

DARWIN DeLeon Lamb

**APPOINTMENT OF FEDERAL DEFENDER OFFICE**

<input type="checkbox"/> MULTIPLE DEFENDANT CASE	<input type="checkbox"/> DEFENDANT IN CUSTODY
<input type="checkbox"/> NON-ENGLISH SPEAKING	LANGUAGE: _____
VIOLATION: _____	CASE TYPE: _____

The defendant has qualified for the appointment of counsel under the Criminal Justice Act.

**IT IS ORDERED** that the Federal Defender Office, 22nd Floor, 2255 Penobscot Building, Detroit, Michigan 48226, telephone number (313) 961-4150, is appointed to represent this defendant in this case, unless the appointment is terminated by (1) Order of the Court, (2) appointment of substitute counsel, or (3) appearance of retained counsel.

NEXT COURT DATE: Motion for Reduction of Sentence - Crack/Income

Dated: 11/16/2008

W. J. Edmunds  
United States District Judge/Magistrate Judge

AUSA Assigned: Robert A. Haveland

**PARTIAL PAYMENT ORDER**

**IT IS ORDERED** that partial payment be made by the defendant in the amount of \_\_\_\_\_ monthly, commencing on \_\_\_\_\_, until this case is terminated or otherwise ordered by the Court. Payment shall be made to the **Clerk of the Court, Theodore Levin United States Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.**

Defendant's Name, Address & Telephone Number:

\_\_\_\_\_  
United States District Judge/Magistrate Judge

\_\_\_\_\_  
Defendant's Signature

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN

BOP 4-2-2014

#08-555  
CT:CK



UNITED STATES OF AMERICA

v.

Case No: 03-80518

NICKYE M. EVANS,

**APPOINTMENT OF FEDERAL DEFENDER OFFICE**

<input type="checkbox"/> MULTIPLE DEFENDANT CASE	<input type="checkbox"/> DEFENDANT IN CUSTODY
<input type="checkbox"/> NON-ENGLISH SPEAKING	LANGUAGE: _____
VIOLATION: <u>21:841(a)(1) Crack Cocaine</u> CASE TYPE: _____	

The defendant has qualified for the appointment of counsel under the Criminal Justice Act.

**IT IS ORDERED** that the Federal Defender Office, 22nd Floor, 2255 Penobscot Building, Detroit, Michigan 48226, telephone number (313) 961-4150, is appointed to represent this defendant in this case, unless the appointment is terminated by (1) Order of the Court, (2) appointment of substitute counsel, or (3) appearance of retained counsel.

NEXT COURT DATE: TO BE DETERMINED

Dated: 4/23/08

[Signature]  
United States District Judge/Magistrate Judge

AUSA Assigned: \_\_\_\_\_

**PARTIAL PAYMENT ORDER**

**IT IS ORDERED** that partial payment be made by the defendant in the amount of \_\_\_\_\_ monthly, commencing on \_\_\_\_\_, until this case is terminated or otherwise ordered by the Court. Payment shall be made to the **Clerk of the Court, Theodore Levin United States Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.**

Defendant's Name, Address & Telephone Number:

\_\_\_\_\_  
United States District Judge/Magistrate Judge

\_\_\_\_\_  
Defendant's Signature

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN



AW  
of  
ck

UNITED STATES OF AMERICA

v.

Case No: 99-81014-01

Larone Mills

APPOINTMENT OF FEDERAL DEFENDER OFFICE

<input type="checkbox"/> MULTIPLE DEFENDANT CASE	<input type="checkbox"/> DEFENDANT IN CUSTODY
<input type="checkbox"/> NON-ENGLISH SPEAKING	LANGUAGE: _____
VIOLATION: <u>21 USC 841</u>	CASE TYPE: <u>Guideline Amendment Review</u>

The defendant has qualified for the appointment of counsel under the Criminal Justice Act.

**IT IS ORDERED** that the Federal Defender Office, 22nd Floor, 2255 Penobscot Building, Detroit, Michigan 48226, telephone number (313) 961-4150, is appointed to represent this defendant in this case, unless the appointment is terminated by (1) Order of the Court, (2) appointment of substitute counsel, or (3) appearance of retained counsel.

NEXT COURT DATE: \_\_\_\_\_ JUL - 2 2008

Dated: 7/2/2008

CLERK'S OFFICE  
U.S. DISTRICT COURT  
ANN ARBOR, MI  
*[Signature]*  
United States District Judge/Magistrate Judge

AUSA Assigned: \_\_\_\_\_

PARTIAL PAYMENT ORDER

**IT IS ORDERED** that partial payment be made by the defendant in the amount of \_\_\_\_\_ monthly, commencing on \_\_\_\_\_, until this case is terminated or otherwise ordered by the Court. Payment shall be made to the **Clerk of the Court, Theodore Levin United States Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.**

Defendant's Name, Address & Telephone Number:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
United States District Judge/Magistrate Judge

\_\_\_\_\_  
Defendant's Signature

EDM 0044  
01/95