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OCTOBER 3, 2016

CLERK US DISTRICT COURT  
DISTRICT OF ARIZONA

BY s/M. Everette DEPUTY

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

In the Matter of

APPOINTMENT OF THE  
FEDERAL PUBLIC DEFENDER FOR THE  
PURPOSE OF SCREENING CASES FOR  
POTENTIAL CLAIMS UNDER  
JOHNSON v. UNITED STATES,  
135 S. CT. 2551 (2015)

GENERAL ORDER 16-20

**SUPERSEDES GENERAL ORDER 16-07**

Pursuant to 18 U.S.C. § 3006A(c) and in the Court's discretion, the Court now issues the following order to facilitate processing requests for postconviction relief in light of the Supreme Court's decision in Johnson v. United States, 135 S. Ct. 2551 (2015). Accordingly, **IT IS HEREBY ORDERED:**

1. The Federal Public Defender is hereby appointed to the task of screening cases prosecuted in the District of Arizona for potential claims for relief under Johnson. Screening of cases includes consultation, screening client files, responding to defendant inquiries, identifying potential conflicts of interest, and, where appropriate, filing a motion for appropriate postconviction relief in either this Court or the United States Court of Appeals for the Ninth Circuit unless a conflict of interest prevents the Federal Public Defender from doing so.
2. The Federal Public Defender's Office will determine:
  - a. whether any defendant's sentence qualifies for relief under Johnson;

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- b. whether the United States Attorney for the District of Arizona will stipulate to relief under Johnson in a particular case;
  - c. if the United States Attorney will not so stipulate, whether a motion for postconviction relief should be filed on the defendant's behalf; and
  - d. whether a conflict of interest prevents the Federal Public Defender from representing that defendant in connection with a request for postconviction relief under Johnson.
3. When the Federal Public Defender's Office determines, upon review, that the defendant may qualify for relief under Johnson, the Federal Public Defender is hereby appointed to represent that defendant before this Court and before the United States Court of Appeals for the Ninth Circuit, if the prisoner is required by 28 U.S.C § 2255(h) to seek authorization to file for postconviction relief from that court, subject to the qualifications described below.
  4. When the Federal Public Defender's Office determines, upon review, that the defendant may qualify for relief under Johnson, but also that a conflict of interest prevents representation of that defendant under paragraph 3, the Federal Public Defender shall locate counsel in accordance with the CJA Plan for this District and file a motion for appointment of CJA counsel. Appointment of CJA counsel shall extend to proceedings in the United States Court of Appeals for the Ninth Circuit under 28 U.S.C. § 2255(h) if the prisoner is required to seek authorization to file for postconviction relief before that court.
  5. The Clerk shall make reasonable efforts to provide pro se filings that seek relief under Johnson to the Federal Public Defender so that those filings may be screened for potential claims. The Court's Staff Attorneys will evaluate the pro se filing to determine whether appointment of the Federal Public Defender is appropriate. See Rules Governing Section 2255 Cases, Rule 4(b). If the Court appoints the Federal Public Defender, the Court will afford leave to amend the pro se filing in an appropriate manner.

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- a. Once appointed under this paragraph, the Federal Public Defender may move to withdraw in light of a conflict of interest and file a motion for appointment of substitute CJA counsel in accordance with the CJA Plan for this District.
  - b. Once appointed under this paragraph, the Federal Public Defender may instead move to withdraw. The motion to withdraw must be accompanied by an explanation of why the defendant does not have a viable Johnson claim and list arguable grounds, if any, on which the defendant might be entitled to postconviction relief under Johnson. This directive applies regardless of whether the Federal Public Defender previously represented appeared in any prior proceeding in the case on behalf of any party.
6. The United States Probation Office for the District of Arizona is hereby authorized to disclose presentence investigation reports and statements of reasons for imposing sentence to the Federal Public Defender's Office for purposes of screening cases for potential claims for Johnson relief and for conflicts of interest.
7. The United States Attorney's Office and the Public Defender's Office will make their best efforts to use the reports they already have in their possession before requesting copies from the United States Probation Office.

DATED this 3<sup>rd</sup> day of October, 2016.

  
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Raner C. Collins  
Chief United States District Judge