

FILED
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

2016 MAY 31 12:48

IN RE CASE MANAGEMENT OF § 2255
MOTIONS TO BE FILED PURSUANT TO

Johnson v. United States,
576 U.S. ___, 135 S. Ct. 2551 (2015)

DISTRICT OF UTAH

STANDING ORDER

DEPUTY CLERK

No. 16-002

In fulfillment of the Court's obligation to promote judicial economy and the orderly working of the judiciary, the following case-management and administrative procedures are established to address the large number of motions expected to soon be filed under 28 U.S.C. § 2255 in light of *Johnson v. United States*, 135 S. Ct. 2551 (2015). The objective of this order is to streamline the procedures, avoid unnecessary briefing and litigation, allow for the orderly development of precedent, and provide for judicial economy.

As authorized by the Court's Standing Order No. 15-005, the Office of the Federal Public Defender for the District of Utah has reviewed the cases of defendants previously declared indigent to assess whether the defendants may qualify for relief under *Johnson*. The Federal Defender's Office expects to file nearly 200 motions with the district court on or before June 25, 2016.¹ In addition to motions regarding prior cases applying the Armed Career Criminal Act, these motions will raise issues relating to *Johnson's* application to various guideline provisions such as USSG § 2K1.2 and § 4B1.2; *Johnson's* application to the residual clause of 18 U.S.C. §

¹ In a small number of cases, the defendant's prior counsel appointed under the Criminal Justice Act (CJA) chose to continue representation, so a small number of motions will be filed by CJA counsel.

924(c); and the effect of *Johnson* on classification of numerous state and federal statutes as “crimes of violence” and “violent felonies.”

Summary Motions

While a number of these motions will be extensively briefed at the time of filing and ready for the assigned judge to address after directing the United States Attorney to respond, many motions will be submitted without full briefing or argument on the merits (“summary motions”), requiring supplementation at a later date to more fully explain the *Johnson* claim. These summary motions will typically be filed in cases in which one precedential court ruling on an issue or statute could determine or guide the fate of all the § 2255 motions involving the same issue or statute. These summary motions will clearly state that they are of that summary nature and upon filing will be automatically stayed by the Clerk of Court. In the meantime, the Federal Public Defender’s Office will continue to fully brief and litigate the pending substantive § 2255 motions. When precedential rulings are entered that resolve issues for the cases within a given category, the Federal Defender’s Office will either move to withdraw similar pending motions or will supplement them with a more detailed pleading, asking that the stay be lifted and fully explaining the *Johnson* claim. At that point, the stay entered in a case commenced by a summary motion will be lifted, and the case will be ready for response by the United States Attorney and disposition by the assigned judge.

The Federal Defender’s Office will inform CJA counsel acting in a small number of these cases of the procedure as well, so they can act consistently.

Administrative Procedures

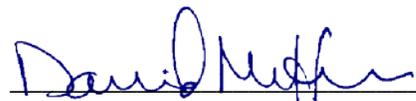
Administratively, the following steps shall occur in the cases to be filed:

- All § 2255 motions filed without full briefing will refer to this Case Management Order in the caption, thus flagging their status as summary motions.
- The Clerk of Court will automatically stay all § 2255 summary motions referring to this Case Management Order.
- When the Federal Defender's Office or CJA counsel decides that a § 2255 summary motion is ready to fully litigate, a supplemental brief will be filed, along with a motion to lift the stay.
- Any § 2255 motion filed without reference to this Case Management Order will not be automatically stayed.

This process should be helpful in timely resolving the § 2255 motions, fairly and without unnecessary use of court resources.

It is SO ORDERED this 31st day of May, 2016.

BY THE COURT:



DAVID NUFFER, CHIEF JUDGE