

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

STANDING ORDER NO. 2

RE: RETROACTIVE APPLICATION OF *JOHNSON V. UNITED STATES*

This Standing Order supplements and modifies the Standing Order issued by this Court on June 2, 2016 concerning the retroactive application of *Johnson v. United States*, 135 S. Ct. 2551 (2015). On June 27, 2016, the Supreme Court granted *certiorari* in *Beckles v. United States*, No. 15-8544 (U.S. June 27, 2016), in order to decide whether *Johnson*'s constitutional holding applies to cases challenging sentences enhanced under the residual clause of the career offender guideline, U.S.S.G. § 4B1.2(a)(2), and, if so, whether it applies retroactively.

Under the Standing Order issued on June 2, 2016, the Court authorized the Office of the Federal Public Defender to file abridged motions seeking relief pursuant to 28 U.S.C. § 2255 by June 26, 2016, in order to meet the filing deadline for the retroactive application of *Johnson*. It further authorized the filing of a supplemental motion fully briefing the issues raised in any such abridged motion by October 26, 2016. In view of the fact that the Supreme Court will not have decided *Beckles* by that date, and because the decision in *Beckles* may affect both the availability of relief to certain defendants and the arguments the Federal Public Defender and the United States Attorney may make with respect to such defendants, the Court supplements and modifies its June 2, 2016 Standing Order as indicated below. In all other respects, the June 2, 2016 Standing Order remains in full force and effect.

In any case where the defendant has filed an abridged motion pursuant to 28 U.S.C. § 2255 that raises only challenges to the definition of "crime of violence" set forth in U.S.S.G. § 4B1.2(a)(2), based on *Johnson v. United States*, 135 S. Ct. 2551 (2015), the scheduled October 26, 2016 date for filing a supplemental motion fully briefing the issues presented in the abridged

motion shall be extended until after the Supreme Court decides *Beckles v. United States*, No. 15-8544. After the Supreme Court decides the issues presented in *Beckles*, this Court will issue a supplemental Standing Order setting the date by which supplemental motions in those cases must be filed. The Federal Public Defender shall not be prohibited from filing motions in individual cases seeking to litigate the case before *Beckles* is decided, nor shall the government be prohibited from opposing such motions.

This Order is effective immediately.

SO ORDERED.

Date: September 9, 2016

BERYL A. HOWELL
Chief Judge