

FILED

MAR 27 2017

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

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

STANDING ORDER NO. 4

RE: RETROACTIVE APPLICATION OF JOHNSON V. UNITED STATES

This Standing Order supplements and modifies the Standing Orders issued by this Court on June 2, 2016 (“Standing Order”) and September 9, 2016 (“Standing Order No. 2”), concerning the retroactive application of *Johnson v. United States*, 135 S. Ct. 2551 (2015). In 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*, and further authorized the filing of a supplemental motion fully briefing the issues raised in any such abridged motion by October 26, 2016. The Court issued Standing Order No. 2, after the Supreme Court granted certiorari, on June 27, 2016, in *Beckles v. United States*, No. 15-8544 (U.S. June 27, 2016), 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. In Standing Order No. 2, the Court extended the time to file the supplemental motion for those cases that raised only challenges to the definition of “crime of violence” set forth in U.S.S.G. § 4B1.2(a)(2) until after the Supreme Court decided *Beckles*.

The Supreme Court decided *Beckles* on March 6, 2017, holding that the advisory Sentencing Guidelines are not subject to a void for vagueness challenge under the Fifth Amendment Due Process Clause. *Beckles v. United States*, ___ S. Ct. ___, 2017 WL 855781 (March 6, 2017). In light of *Beckles*, the Court supplements and modifies its Standing Order

and Standing Order No. 2 as indicated below. In all other respects, the Standing Orders, including the October 14, 2016, Standing Order No. 3, remain 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 Office of the Federal Public Defender shall file a notice of voluntary dismissal, a notice of the defendant’s intention to proceed *pro se*, or a supplemental pleading by May 26, 2017.

This Order is effective immediately.

SO ORDERED.

Date: March 22, 2017



Digitally signed by Hon. Beryl A. Howell
DN: cn=Hon. Beryl A. Howell, o=Chief Judge, U.S. District Court for the District of Columbia, email=Howell_Chambers@dcd.uscourts.gov, c=US
Date: 2017.03.22 09:17:12 -04'00'

BERYL A. HOWELL
Chief Judge